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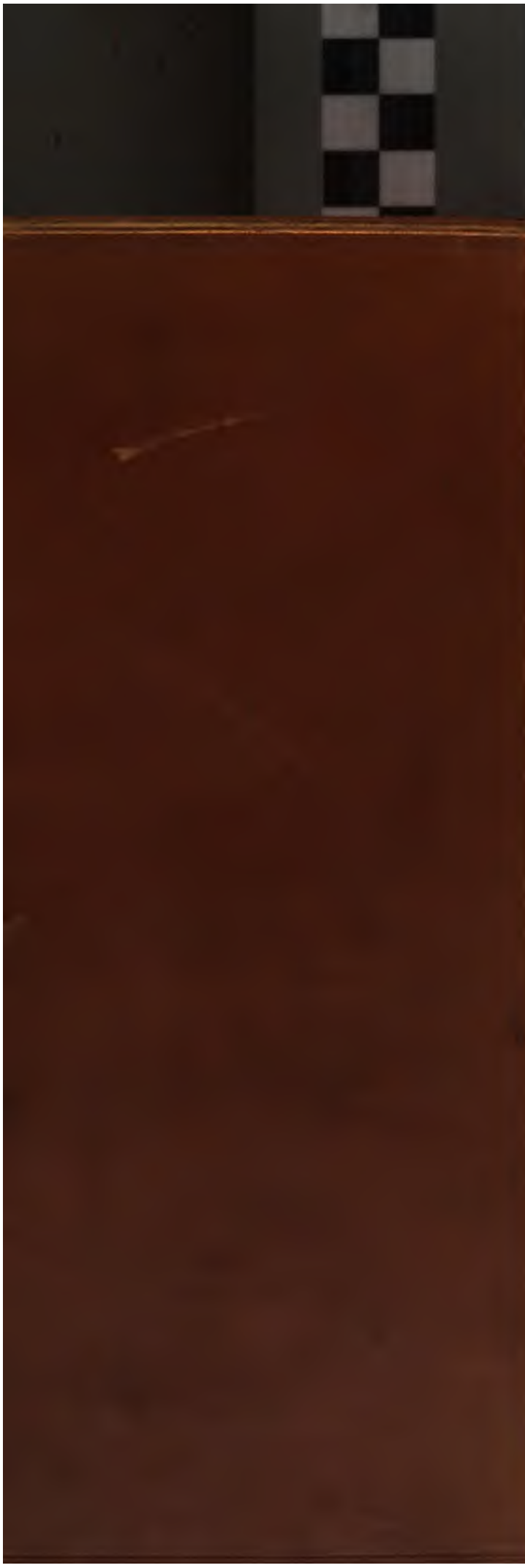

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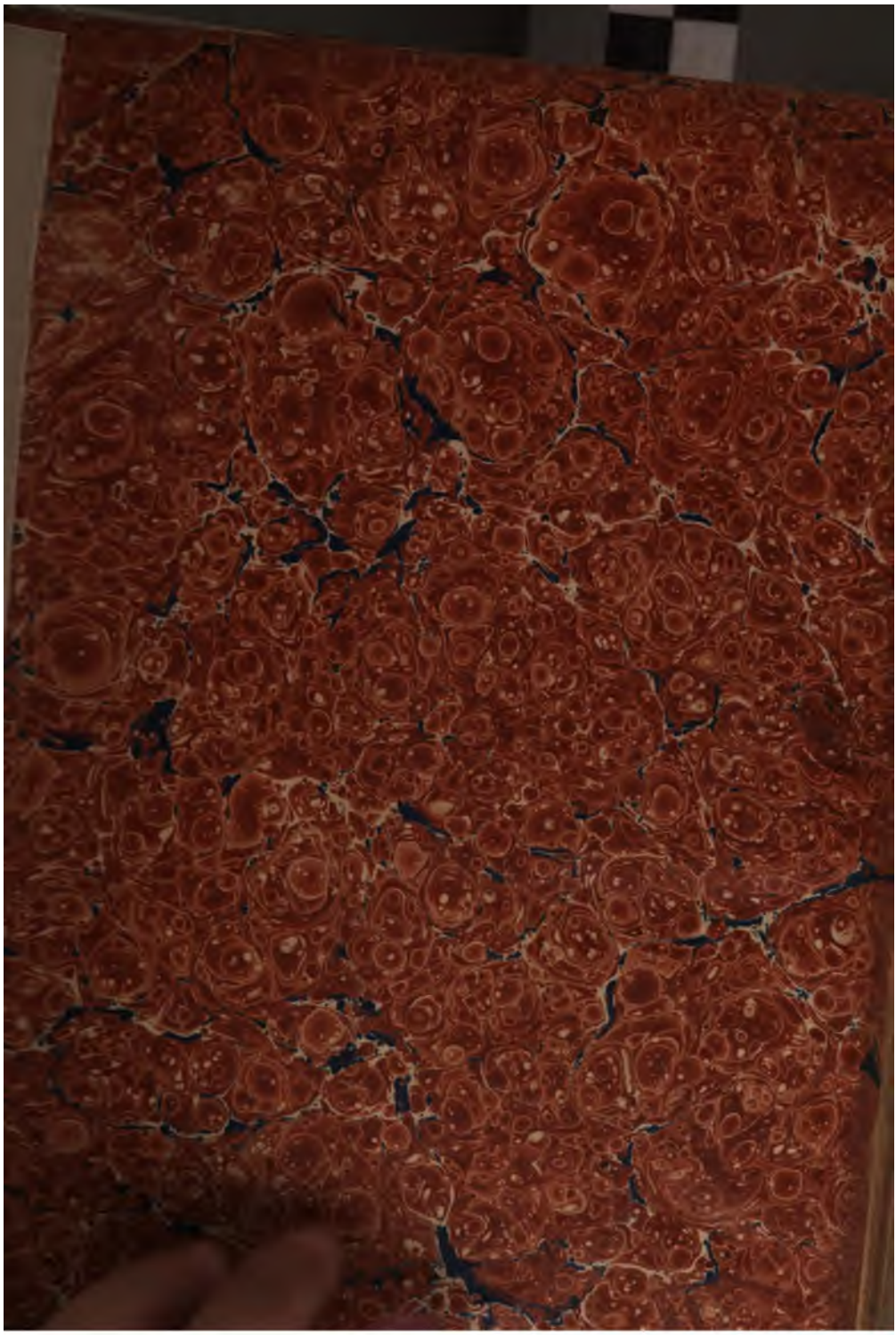

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State Trials.

VOL. XXV.

[BEING VOL. IV. OF THE CONTINUATION]

35 & 36 GEORGE III.....A. D. 1794—1796.

A

COMPLETE COLLECTION

OF

State Trials

AND

PROCEEDINGS FOR HIGH TREASON AND OTHER CRIMES AND MISDEMEANORS

FROM THE

EARLIEST PERIOD TO THE YEAR 1783,

WITH NOTES AND OTHER ILLUSTRATIONS:

COMPILED BY

T. B. HOWELL, Esq. F.R.S. F.S.A.

AND

CONTINUED

FROM THE YEAR 1783 TO THE PRESENT TIME;

BY

THOMAS JONES HOWELL, Esq.

VOL. XXV.

[BEING VOL. IV. OF THE CONTINUATION]

35 & 36 GEORGE III.....A. D. 1794—1796.

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TABLE OF CONTENTS

TO

VOLUME XXV.

GEORGE THE THIRD, A. D. 1794—1796.

605. THE Trial of JOHN HORNE TOOKE, Clerk, for High Treason, before the Court holden under a Special Commission of Oyer and Terminer, at the Sessions House in the Old Bailey, on Monday 17th, Tuesday 18th, Wednesday 19th, Thursday 20th, Friday 21st, and Saturday 22nd of November: 35 GEORGE III. A. D. 1794 1

606. The Trial of JAMES BIRD, ROGER HAMILL, and CASIMIR DELAHOYDE, Merchants; PATRICK KENNY, BARTHOLOMEW WALSH, MATTHEW READ, and PATRICK TIERNAN, Yeomen; for conspiring to incite an Insurrection in the Kingdom of Ireland; before the Honourable Mr. Justice Downes, at Drogheda, April 23rd: 34 GEORGE III. A. D. 1794 749

607. Proceedings in the Court of King's-Bench of the Kingdom of Ireland, against WILLIAM JACKSON, Clerk, on an Indictment charging him with High Treason: 34 & 35 GEORGE III. A. D. 1794, 1795 783

608. Proceedings on the Trial of Major Sir ARCHIBALD GORDON KINLOCH, of Gilmerton, Bart. for the Murder of Sir Francis Kinloch, Bart. his Brother German. Tried before the High Court of Justiciary at Edinburgh, on Monday the 29th of June: 35 GEORGE III. A. D. 1795 891

TABLE OF CONTENTS.

Page

609. Proceedings on the Trial of HENRY REDHEAD, otherwise HENRY YORKE, Gentleman, for a Conspiracy. Tried at the Assizes holden at York before the Honourable Sir Giles Rooke, knt. one of the Justices of his Majesty's Court of Common Pleas, July 23rd: 35 GEORGE III. A. D. 1795 1003

610. Proceedings on the Trial of WILLIAM STONE, Merchant, for High Treason; at the Bar of his Majesty's Court of King's-Bench, Westminster, on Thursday and Friday the 28th and 29th days of January: 36 GEORGE III. A. D. 1796..... 1155

CORRIGENDA.

CORRIGENDA.

Vol. XXV.

p. 13, l. 17, *for* 6 *read* 9.
l. 22, *for* raved *read* vowed.
l. 34, *dele* had.
l. 37, *for* into *read* unto.
p. 14, l. 23, *for* saying *read* saving.
l. 27, *for* would *read* could.
l. 56, *for* might better *read* might the better.
p. 15, l. 7 *from the bottom, after* beard, *insert* and by that means to compel him to agree with them.
p. 37, l. 1, *for* has *read* as.
p. 41, l. 8 *from the bottom, for* the *read* they.
p. 50, lines 7 & 9, *for* Rowland *read* Roland.
p. 64, l. 31, *for* consistency *read* constancy.
p. 128, lines 32 & 34, *for* Strafford *read* Stafford.
l. 3 *from the bottom, for* Vol. 3 *read* Vol. 7, *and for* p. 1381 *read* p. 1293.
p. 368, *for* note 1 *read* note.
p. 752, l. 3, *from the bottom, for* a table? *read* a table.
p. 803, lines 34 & 35, *after* Prime Serjeant, *insert* James Fitzgerald, Mr. Solicitor General.
lines 36 & 37, *dele* Mr. Solicitor General, James Fitzgerald.
p. 1276, lines 7, 8, 36, & 41, *for* Strafford *read* Stafford.
p. 1278, l. 14 *from the bottom, for* Strafford *read* Stafford.
p. 1302, l. 6 *from bottom, for* with *read* within.

STATE TRIALS,

&c. &c.

605. The Trial* of JOHN HORNE TOOKE,† Clerk, for High Treason, before the Court holden under a Special Commission of Oyer and Terminer, at the Sessions House in the Old Bailey, on Monday 17th, Tuesday 18th, Wednesday 19th, Thursday 20th, Friday 21st, and Saturday 22nd, of November: 35 GEORGE III. A. D. 1794.‡

[The preliminary proceedings will be found in the preceding Volume of this Collection, pp. 199, *et seq.*, and pp. 1385, *et seq.*]

Sessions House, in the Old-Bailey, Monday, November the 17th, 1794.

PRESENT,

Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Grose, Mr. Justice Lawrence; and others, his Majesty's Justices, &c.

Counsel for the Crown.—Mr. Attorney General [Sir John Scott, afterwards Lord Chancellor Eldon]; Mr. Solicitor General [Sir John Mitford, afterwards Lord Redesdale and Lord Chancellor of Ireland]; Mr. Serjeant Adair; Mr. Bearcroft; Mr. Bower; Mr. Law [afterwards Lord Ellenborough and Lord Chief Justice of the Court of King's Bench]; Mr. Garrow [afterwards, successively, Solicitor General, Attorney General, and a Baron of the Exchequer]; Mr. Wood [afterwards a Baron of the Exchequer]; Hon. Spencer

* Taken in short-hand, by Joseph Gurney.

† See his Trial for a Seditious Libel, *ante*, Vol. 20, p. 651.

‡ In "Memoirs of John Horne Tooke, interspersed with original documents; by Alexander Stephens, esq. of the Honourable Society of the Middle Temple," I find the following narrative; which, as it is stated to proceed from "Information obtained by means of one of the persons chiefly interested on the present occasion," is not improper to be here inserted:

"Among the immense number of spies and informers now employed, were several of a higher order, some of whom were solely actuated by zeal; while others, who would have spurned the idea of pecuniary gratifications, were influenced solely by the hopes of offices and appointments. One of the latter had for some time attached himself to Mr. Tooke, and was a frequent visitor at Wimbledon. His station and character were calculated to shield him from suspicion, but his host, who was too acute to be so easily duped, soon saw through the flimsy veil of his pretended discontent. As he had many personal friends, in various departments of government, he soon discovered the views, connexions, and pursuits of his guest; but, instead of upbraiding him with his treachery, and dismissing him with contempt, as most other men in his situation would have done, he determined to foil him, if possible, at his own weapons.

"It was always a maxim with Mr. Tooke, in the war of politics, to turn the *enemy's cannon on themselves*; and no one was ever more ready to exclaim:

——————"Let it work,
For 'tis the sport, to have the engineer
Hoist with his own petard: and it shall go hard,
But I will delve one yard below their mine,
And blow them to the moon."

HAMLET, Act 3, s. 4.

"He accordingly pretended to admit the spy into his entire confidence, and completed the delusion, by actually rendering the person, who wished to circumvent him, in his turn, a dupe. Mr. Tooke began by dropping remote hints, relative to the strength and zeal

Perceval [afterwards First Lord of the Treasury, and Chancellor of the Exchequer].

Solicitor.—Joseph White, esq. Solicitor for the affairs of his Majesty's Treasury.

Counsel for the Prisoner assigned by the Court.—The Hon. Thomas Erskine [afterwards Lord Chancellor Erskine]; Mr. Gibbs [afterwards, successively, Lord Chief Baron

of the popular party, taking care to magnify their numbers, praise their unanimity, and commend their resolution. By degrees he descended to particulars, and at length communicated confidentially, and under the most solemn promises of secrecy, the alarming intelligence, that some of the guards were gained; that an armed force was organized; and that the nation was actually on the eve of a revolution. After a number of interviews, he at length affected to own, that he himself was at the head of the conspiracy, and boasted, like Pompey of old, "that he could raise legions, merely by stamping on the ground with his foot!"

"To comprehend the full effect of this, it is only necessary to advert to the situation of the country at that period. The war was deemed unjust by many, and was then generally unpopular. Certain accredited persons had been lately sent by some of the societies to France, and a treasonable correspondence with that country was now supposed to exist. The capital began to be in a perturbed state; the manufacturing districts were agitated; political associations multiplied; and, to crown the whole, it was rumoured, that an attempt had been made to debauch the household troops from their loyalty; and, by their means, effect a change similar to that which had been so recently achieved in a neighbouring kingdom, by means of the French guards.

"In this situation of affairs, the ministers were of course alarmed: they could only obtain intelligence by means of their *reporters;* a new name, first used about this period, to diminish the odium attached to the word spy; and it is always the obvious interest of this order of men to alarm and terrify. It appeared evident, from the concurring testimony of all these, that a crisis was to be expected; and that something must be done, to detect and punish the authors, abettors, and instigators of the supposed conspiracy. The intelligence daily obtained from Mr. Tooke's *confidential friend*, seemed to confirm and to realize the worst conjectures; and the cabinet ministers accordingly deemed themselves justified in adopting measures correspondent with the urgency of the occasion.

"It was in this perplexing state of affairs, that a letter was intercepted, of so serious and alarming a nature, as to appear to give certainty to supposition, and set doubt itself at defiance. It was written by the reverend Jeremiah Joyce, a person of fair character and good education; and, at the same time, an active and intelligent member of the Constitutional Society. This gentleman, who was then employed in educating the children of lord Stanhope, was known to visit and to correspond with the politician of Wimbledon; a man, long considered as the "master spirit," who brooded over those treasons now about to be disclosed.

"The following is an exact copy of the portentous note:

"'DEAR CITIZEN,

"'This morning, at six o'clock, citizen 'Hardy was taken away, by order from the 'secretary of state's office: they seized every 'thing they could lay hands on.—Query, is 'it possible to get ready by Thursday? 'Yours, J. JOYCE.'

"On the receipt of this terrific epistle, ministers instantly took the alarm; and, as a specific day was supposed to be actually indicated for an insurrection, it was determined to anticipate that event. Accordingly all the avenues to Mr. Tooke's house were instantly watched; and his carriage was followed next morning to the city. Soon after he had sat down to dinner, at the house of a gentleman, in Spital-square, a detachment of soldiers was sent to that quarter; and, in the course of the afternoon, a troop of light horse passed by the windows of the apartment in which he happened to sit. He himself was seized by a warrant from the secretary of state, early in the morning of the 16th of May, 1794, and conveyed a prisoner to town.

"No sooner did Mr. Tooke perceive his commitment to be inevitable, than his mind, perfectly at ease respecting his own fate, was entirely occupied about the care and preservation of his daughters. He accordingly transmitted the following letter to a lady on whose prudence and discretion he could implicitly rely:

"*Whitchall, May* 17, 1794.

"'DEAR MADAM;

'I take the liberty of requesting you to go 'to my house at Wimbledon, for a short time, 'to accompany my poor girls in my absence. 'I am in custody, by order of the secretary 'of state, and cannot return. The gentle-'man who brings this note will accompany 'you this evening to Wimbledon. You will 'very greatly oblige me by this act of kind-'ness. Your most obedient servant,

'J. HORNE TOOKE.'

"Soon after this he was conveyed to the Tower, with the formalities usually observed in respect to those who are detained on suspicion of treason.

"In this fortress, which, in the course of our early history, had witnessed so many acts of violence, outrage, and murder, Mr. Tooke was confined, a close prisoner, for several months. During a considerable portion of

of the Exchequer and Lord Chief Justice of the Court of Common Pleas].

Assistant Counsel.—Mr. Dampier [afterwards a Judge of the Court of King's Bench]; Mr. Felix Vaughan, Mr. Gurney.

Solicitors.—Messrs. George and Romaine, William Clarkson, of Essex-street.

John Horne Tooke set to the bar.

MR. *TOOKE.*—My lord, I desire, as necessary for the purpose of my defence, that I may quit the situation in which I at present stand, and be placed near to those counsel which the Court have assigned to me for my assistance in my defence.

this period, he was debarred from pen, ink, and paper; and no one was suffered to have any intercourse with him except the jailors. At length, a certain degree of relaxation took place; and this had become absolutely necessary, indeed, on account of his health, which required frequent medical attendance. He was accordingly permitted to transmit a letter, on this subject, to the privy council; and, nearly at the same time, his friend Mr. Vaughan, the barrister, addressed sir Richard Ford on the same subject. From the original correspondence, now before me, I am enabled to discover, and most willingly relate, that government paid immediate attention to the very first application; and that an order was instantly issued for the admission of Dr. Pearson and Mr. Cline, 'as often as the state 'of Mr. Tooke's health should render it proper 'and necessary.' To these professional gentlemen was soon after added Mr. Keates; and I perceive, that the barrister alluded to above, now found an opportunity to communicate, by means of a third person, 'that he had 'some money of Mr. Tooke's in his hand, and 'that he would be extremely happy to execute 'any commission relative to the family at 'Wimbledon.'

"In addition to medical assistance, other attentions were not wanting; for the prisoner now obtained the daily services of a barber; and, through this medium, was at length gratified with the perusal of a morning paper, which afforded him no small share of amusement, although he often found himself described 'as a hoary traitor,' and the 'ringleader of a gang of conspirators, who had 'been employed to destroy our glorious con'stitution in church and state.'

"He had also frequent opportunities of communicating with those who had been taken up and confined at the same time, particularly Mr. Stuart Kydd, who was bred, like himself, to the bar, and Mr. Bonney, who had practised for some years as a solicitor. This intercourse was obtained by simply leaning out of their respective windows, and conversing at periods when no one happened to pass; and, although nothing new was learned, yet it may be easily supposed, that these stolen interviews could not fail to be gratifying.

"Meanwhile, Mr. Tooke was entirely at a loss respecting the accusation against him. He was conscious, that he had not committed any offence, which could be construed into treason by the laws of England; yet he did not know, but that, however innocent himself, he might be implicated by the acts of others. In this state of uncertainty, he conceived an idea, that novel and extraordinary measures would be recurred to; and suspected, that it was intended to cut him off by means of some new statute enacted expressly for this purpose. He was in some measure relieved, however, from all his embarrassments and suspicions on receiving the collection of printed documents relative to the Corresponding Society, from which he first guessed at the nature of the charges intended to be adduced against him. He now began to perceive, for the first time, that his trial was to take place according to all the customary forms of law; and was most agreeably disappointed on learning that he was to be treated like a common culprit.

"Mr. Tooke, about this time, received great consolation, and assistance also, from the company and conversation of his nephew, who was admitted to visit him, and assisted in the arrangement of his papers. In fine weather, he constantly walked on the walls of the Tower, and nothing could induce him to forego that satisfaction. Whenever an opportunity offered, he would rise from the table containing the materials of his exculpation, and after animadverting with contempt, rather than indignation, 'on the weakness as 'well as wickedness of his enemies,' he rushed out of the apartment, wishing 'they had 'given him something to defend, for he could 'not give his serious attention to such ridi'culous imputations as these!'

"After an imprisonment of upwards of three months in the Tower, it became necessary that he should be transferred, according to custom, to one of the city jails, in order to be tried. One remarkable circumstance occurred on his removal to Newgate; for, on his arrival there, the jailor positively refused to receive him, no warrant having been brought for that purpose. On this his kinsman returned to the Tower, and while the prisoner sat in Kirby's parlour, he applied to the proper officer, for the necessary authority. In consequence of the absence of a clerk, some new delay occurred, until, at length, snatching up a pen, he himself drew up the order for the commitment of his own uncle; which being accompanied soon after with the usual official signature, he was enabled to return, and transfer the supposed traitor, from all the comforts of a good room and a blazing fire, to an apartment and accommodations of a very different description.

"Although above ground, this possessed

Lord Chief Justice *Eyre*. That is an indulgence which I have hardly ever known given to any person in your situation.*

Mr. *Tooke*.—I am perfectly aware that it is unusual, but I beg your lordship to observe, that every thing in the course of these proceedings is likewise unusual. I beg your lordship to consider, that the proceedings upon the last trial will fill, as I am well informed by the short-hand writer, sixteen hundred close printed octavo pages. That trial lasted nine days, eight days trial, and one day between. The nature of the indictment is such, that it has been impossible for me to guess what would come before your lordship; it has been equally impossible for me to instruct my counsel; they cannot know the passages of my life; and, from what I have seen of the last trial, the whole passages of my life, and those which are not passages of my life, but are only imputed to me, will be brought before you: how is it possible for my counsel to know those particular facts which are known only to myself? If ever there was a case where indulgence was fit to be granted it is this; yet your lordship will forgive me for saying, that I claim it as my right by law, and do not ask it as an indulgence.

Undoubtedly I mean to show no disrespect† to any one at this time, when it is my interest to conciliate all; but I cannot help saying, that if I were a judge, that word *indulgence* should never issue from my lips. My lord, you have no indulgence to show; you are bound to be just, and to be just is to do that which is ordered; what is not ordered I shall not ask, and your lordship cannot grant; but if you have any doubt that it is my right by law, to be placed in that situation which is best adapted for me to make my defence, I shall desire to encounter the learning and ability of the attorney and solicitor-general. I claim to be placed by the side of my counsel, for the purpose of making my defence; and I hope your lordship will believe that, when I say this, I am not so foolish as to desire to give you, or any person in the court, offence, when it is so strongly my interest to please you all.

My lord, it is not for a small stake that I stand here—it is to deprive me of my life, to beggar my family, to make my name and memory infamous to all posterity; so deep a stake as that may very well overset my understanding: it is very well known that the best gamesters, when the stake is too deep for them, play the worst; I hope that will not be my case; and I hope and trust, if your lordship

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all the true and genuine characteristics of a dungeon. The water trickled down from the walls, the floor had been just washed, and the bed clothes were so damp, that the moisture actually exhaled in clouds of vapour, on the application of artificial heat. Such were the comforts reserved for a man, who had attained nearly sixty years of age, was oppressed by misfortunes, overwhelmed by disease, and doomed to stand a trial for his life and fortune!"—*Stephens's Life of Horne Tooke, Vol. 2, p. 115—125, ed. of* 1813.

* See in this Collection the case of Huggins, Vol. 17, pp. 311, 315, and the case of Bambridge, p. 387, of the same Volume.

† In the "Memoirs of John Horne Tooke, by Alexander Stephens, esq." I observe a document, the tenor of which is somewhat inconsistent with the profession here uttered by that extraordinary person. It is not unreasonable to suppose that the acquittal of Hardy operated powerfully to alter the demeanour which Horne Tooke had originally intended to assume on the present occasion: His *principles* probably remained the same. I insert this document, such as it is, accompanied by the reflexions of the biographer:

"On the arraignment of the prisoners at the Old Bailey, Mr. Tooke, whose suspicions appear to have been again aroused by the late charge to the grand jury, had determined to address the Court, in a speech condemning some of the principles there laid down, and attacking the character and conduct of the presiding judge himself. His sentiments were carefully committed to writing; and I am enabled here to insert a correct copy, from *the only document* now in existence.

"'My Lord; -The intentions of your lordship, and of those by whom you are employed, are sufficiently barefaced and apparent to me; and no man, who has read my petition to the house of Commons, can doubt of the motives and causes of this prosecution against me. The minister pledged himself solemnly to the house that I should be punished. And thus he keeps his word.

"'My lord—I have the same taste of sweet and bitter in common with other men. I love life. I dislike death. But I believe there never was, and I trust, that I shall find there never will be, in my mind, a single moment's hesitation or reluctance to lay down my life deliberately and cheerfully in defence of the rights of my country, and I never was more ready to do it than now.

"'Near half a year of CLOSE custody, under many degrading and humiliating circumstances, without the admission of any person to me, except my physician and my surgeon, at my age, and with my infirmities, this *close* custody has, in some measure, impaired the health and strength of my body; but my principles remain unalterably the same as they have been invariably and uniformly throughout my life.

"'This bill of indictment, to which I am now to plead, contains alleged matter (and the only matter directed against me) as FACT, from whence to infer the crime of high treason. Which fact, if charged upon oath, and clearly proved before any justice of the peace, or even before your lordship, would not authorize either him or you to grant a warrant of apprehension against the person charged.

permits me to sit near my counsel, that I shall prevent a great waste of time to the jury, your lordship, and myself; for, I am certain, I shall make it impossible for the prosecutor to make any case against me that shall call upon me for my defence.

I come here from a very close custody of a whole summer, and a whole autumn; I have not, any more than your lordship many summers or many autumns to spare; that custody has been attended with many degrading and many humiliating circumstances, and some inhuman

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" 'If a charge brought upon oath before a magistrate were, That A, of the parish of EALING, together witn others of the same parish, had CONSENTED [mark the charge, CONSENTED] that B, C, and D, of the said parish, should march out therefrom—(and, if you please, with major Sturgeon at their head) in order to meet E, F, and G, of the parish of ACTON, for the purpose of CONSULTING together [mark the purpose, CONSULTING] whether these six persons should recommend it to the parishes of *Ealing* and *Acton* to choose certain unknown deputies to meet other certain unknown deputies, from certain other parishes, in order that, when met, (if indeed they should upon such recommendation, ever agree to meet at all) these persons so deputed, should CONSULT [mark another CONSULTATION] whether it would be fit, or not fit, for them to RECOMMEND [mark a second RECOMMENDATION] to the different parishes by whom they were deputed, *any* and *what* measures to be pursued for the purpose of obtaining either a modification or alleviation in the matters of *tithes*, or a modification or alleviation in the matter of *poors' rates*, or a modification or arrangement in the manner of choosing churchwardens or *representatives* to parliament: the person who brought this charge, at the same time acknowledging that no such meeting of *deputies* was ever held: that no such meeting was ever called: that no such deputies were ever chosen: and acknowledging, that he cannot say what sort of deputies would have been chosen: nor what measures these deputies would have recommended: nor whether the parishes who deputed them, would, after all, have approved and followed the recommendation of the deputies.

" I say, my lord (and I do not apprehend even your contradiction), that the *charge* of such a CONSENT, and the fact of CONSENT satisfactorily proved, could not have drawn from any magistrate, nor even from your lordship, a warrant of apprehension, or even a summons of any kind, for the party so charged with such CONSENT; but that the magistrate (if he was not a very grave man indeed) would have burst out a laughing at such a charge; he would have found it a NEW case, indeed, but not a DOUBTFUL one; and, at all events, he would have dismissed it with contempt.

" And yet my lord, upon such a charge as this, Mr Schneider, the German, and Mr. Khuff, the Swiss (who neither talk nor understand common English, much less the technicalities and formalities of a bill of indictment) together with seventeen others (out of twenty-two) of the grand jury, judiciously collected by the late sheriff, Mr. Hammerton, paviour to the custom-house and to the board of ordnance, under the sage and humane direction of your lordship, in this *new* and *doubtful* case; and with the presence, and attendance, and tuition of Mr. White, the solicitor of the treasury, who, though unsworn, was authorized by the Court to attend this grand jury. I say, my lord, under all these circumstances, the grand jury have found this treasury indictment upon which I am now arraigned to stand trial for my life, my fortune, and my character: at your mercy, who gave that charge and direction to the grand jury concerning NEW and *doubtful* cases; and who have full before your view the pension and peerage of your predecessor in office, and before a panel of jurors carefully picked out and selected by that same sheriff, the paviour to the custom-house and to the board of ordnance, who picked out and selected the grand jury who found this bill.

" 'My lord—your lordship will, one day, most assuredly acknowledge, that this is a very extraordinary indictment. Attended, too, with circumstances that no instance in the history of this country, or of the world, can parallel.

" 'I appear to it, however, with a cheerfulness and a satisfaction which I am unable to express. Because, however I may be personally affected by it, the present times and posterity will have infinite obligation to the proprietors of boroughs, who are the promoters of it, and to your lordship. For all the previous steps which have been taken against me; and your lordship's charge and direction to the grand jury, exceed abundantly, in force and power, all other arguments, to prove the necessity, and to ensure the success of a speedy reform in the representation of the people in parliament.

" 'For, under such proceedings as the present, (which could never have taken place, but under such a state of *mis-representation* as the present)—the life, the fortune, and the character of no man in this country, from the lowest to the highest can, henceforward, until that reform shall take place, remain for one moment in safety. For, until that reform shall take place, there never will be wanting, to an insolent, a treacherous, and a corrupt minister—there never will be wanting *legal* butchers, with their proper instruments in their hands—*new* and *doubtful* cases—ready to explore and to rake out pensions and peerages for themselves from the mangled entrails of their dying fellow-creatures.

" 'My lord, my lord, things that are made cheap and vile we never preserve with much care and caution. And, rest you well as-

circumstances, at my age, and with my infirmities; it has, in some measure, impaired the health and the strength of my body; I come to you but half a man; your lordship will expect a whole defence, and I do not doubt but that I shall give you a whole defence, provided you furnish me with the necessary means of doing it.

Lord Chief Justice *Eyre*.—Mr. Tooke you have been furnished with that which the law considers as the necessary means to enable you to make your defence; you have had counsel assigned to you; they have had, or might have had, access to you at all seasonable hours; that is what the law allows you. You have taught the court not to use the word *indulgence;* and you have pointed out to them their duty, that they are to give no indulgence. I am apprehensive that it would be considered as an extraordinary indulgence if the court were now to do that which you ask, because that is not done to other prisoners, it was not done to another prisoner, who went immediately before you, who had the same stake that you have, nor is it done to all other prisoners who do come to this bar; and, therefore, the court are not permitted, without doing injustice to others, to grant that which you ask upon the ground upon which you ask it.

But you have mentioned another circumstance that is extremely material, and which will, in my mind, warrant the court to do that which you think they ought not to do, to *indulge* the prisoner. You have stated the condition of your health, and that in the place in which you stand your health will suffer; the Court has no desire to put you under any difficulties, they wish that you should be enabled to make your defence in the best way imaginable, and if the situation in which you stand is really likely to be prejudicial to your health and, therefore, likely to disable you from making your defence in the manner you might otherwise make it; I shall put it to my lords to consider whether you may not be indulged with that which you have now asked.

Mr. *Tooke*.—The Court will forgive me only for saying that if on the footing of indulgence the Court shall not think it fit to grant what I ask, I hope I shall not after that decision be barred from my argument upon it as a point of law.

Lord Chief Justice *Eyre*.—You must state your whole case upon any matter that arises at once; the proposing it first in one shape, and then going on to state it in another, is carrying us on without end; if you mean to argue this as a point of law, to be sure we are ready to hear you.

Mr. *Tooke*.—I beg your lordship not to misunderstand me, I did so mention it at first, and did ask it not as an indulgence; if your lordship will be pleased to recollect, I did mention, that if there were objections I should then argue it in point of law, thinking that I am well entitled to it by the principles, by the letter, and by the practice of the law. I did not mean to change my ground, I beg your lordship will be pleased to recollect I excluded the idea of indulgence; I did not mean to take first one ground, and then another; but I thought it possible I might save the time of the Court; therefore, I left it to your lordship to collect the sense of the Court, even upon the score of health, which your lordship mentions, to save time, and not to waste the time. I understood very well that after a decision I should not be permitted to argue it, and, therefore, I mentioned that, but not to change my ground; and, therefore, if your lordship should find upon the score of what you call indulgence, I suppose in a different view of the word than I am accustomed to take, I rather understand that your lordship means you are willing to grant it me upon the score of my health; in that case I do not desire to waste the time of the Court; provided it is granted to me, I am very happy, and shall be glad to avoid the argument, if your lordship will be only pleased to give me some intimation of your opinion.

[The Lord Chief Justice consults the other Judges.]

Lord Chief Justice *Eyre*.—Mr. Horne Tooke, I have consulted my lords the judges, who are present, they feel themselves extremely disposed to indulge you on the score of your health, they think that it is a distinction which may authorize them to do that in your case, which is not done in other cases in common;

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sured, that the individuals of this nation will never long consent to hold their lives, their fortunes, and their characters, by the precarious tenure which you are now preparing for them.

"'For my own part, I have never committed a single action, nor written a sentence, nor uttered a syllable, in public or in private, nor entertained a thought (of an important political nature) which (taken with all its circumstances of time, place, and occasion) I wish either recalled or concealed.

"'My lord, I will die, as I have lived, in the commission of the only crime with which I can be charged, during my whole life—the crime of speaking *plainly* the *plain* truth. And I doubt not that I shall plainly prove that I never spoke more truly than I do now, by pleading to this indictment—NOT GUILTY.

"'I shall surely *one day* be tried by God; and, in spite of all appearances to the contrary I will hope *now* to be tried FAIRLY by my country.

"It was the intention of Mr. Tooke to have inserted a copy of this speech in each of the London newspapers; but happily, after due reflection, he was induced to relinquish this scheme, and resort to more moderate counsels.

Stephens's Life of Horne Tooke, Vol. 2. p. 133—140.—See what was said by Horne Tooke, Vol. 24. p. 1405.

they cannot lay down a rule for you which they would not lay down for any other man living; but if your case is distinguishable from the case of others, that does permit them to give you that indulgence which you now ask.*

Mr. *Tooke.*—I am very much obliged to your lordships, and am very well content to accept it as indulgence, or any other thing. Undoubtedly it is very acceptable to me, and very necessary for my health. I am glad to save the time of the Court.

* Rushworth, in the second part of his Collections relates an Irish case in which it appears that a prisoner having desired that in respect of his age and deafness and for other reasons he might have leave to stand where he might hear what evidence was given against him the Lord Chief Just: of C. B. 'unjustly denied it him.' The case is curious and as Rushworth's report is short I will here insert it.

Mich. 6 Car. Star Chamber.

Attorn.' Regis per Rel. Bushen vers' Dom' Vicecom' Kilmallock et al' de Ireland.

The defendant sir Henry Bealing, together with one Macrobin deceased, who bare malice to the relator's father, and raved to be revenged of him, falsely informed the Justices of Assize, that the said Bushen the father had murdered his wife, and thereupon he was bound over to answer it at the Assizes; and the Grand Jury upon the Bill of Indictment against him, returned *Ignoramus* twice: and the Justices of Assize having, for discovery of the truth examined divers witnesses, they gave direction to acquit him by Proclamation; which the Defendant Bealing perceiving, and being incensed against Bushen for some words that he had used then in Court, he did again press and procure the Lord Angier, then Judge of the Assize, to bind the said Bushen over again into the next Assizes, and said he would be bound to prosecute, and find other evidence against him for the King: and between that and the Assizes Bealing vowed, he would spend all the friends, and means he had, but he would have Bushen hanged; and also said he would follow him to Hell Gates, but he would hang him. And to effect that his devilish purpose, he earnestly solicited the lord Viscount Loftus, Lord Chancellor of Ireland, to interpose therein, and give his assistance, telling him great advantage would be made thereby, for that Bushen was a man of a great Estate; which the lord Loftus refusing, Bealing sent a servant to Welden, then High Sheriff of the County, to tell him, that if he would joyn with him the said Bealing to convict Bushen, it should be worth him 3,000*l.*

And before the assizes Bealing told the Lord Loftus he had gotten a man of power that would prosecute it with effect. And at the Assizes the defendant the Lord Kilmallock being then Chief Justice *de Com' Banco* in Ireland and Justice of Assize (and being as it should seem by the sequel the man of power mentioned by Bealing) caused the sheriff on the 2d day of the Assizes, about 7 or 8 o'clock in the morning, to send for the Grand-Jury to the said Sheriff's house; and they being brought into the Dining Chamber there, he caused all persons whatsoever to be shut forth, except the Judges themselves, the Jury, the Clerk of the Crown, the Sheriff, and the defendant Bealing the Prosecutor: and the doors being shut, the Defendant, the Lord Sarsfield Viscount Kilmallock, caused a Bill of Indictment to be preferred, and read to the Jury against Bushen, for the Murder of his Wife, and then bid the Jury go together and find the Bill, and told them they ought to find the Bill; and the Jury desiring to have some Evidence, the Defendant Kilmallock called the Defendant Bealing, who upon his Oath did Depose only, that he heard Bushen murdered his Wife, which was all the Evidence they had, saying that, the lord Sarsfield told some impertinent Tales and Discourses of the strange and miraculous discoveries of secret Murders, and said, That unless they would expect a Miracle from Heaven, they would have no better Evidence than they had. And afterward Four of the Jury refusing to find the Bill, the Lord Sarsfield told them, if they would not find the Bill, they must attend him in Court, which they did: and one of them being asked, Whether he was with the Bill, or against the Bill? and he answering against the Bill, the lord Sarsfield told him, he look'd for no better at his hands; and told another of them that was against the Bill, it was one of his London Tricks, and then committed the Four that would not find the Bill, put them off from the Jury, and fined them 40*l.* a piece; and striking his hand on his Breast, swore by his Honour, that not one penny of their fines should be remitted; and immediately after caused the 11 that yielded to find the Bill, and Two others to be sworn of a new Grand-Jury, and they going together found the Bill *Bills Vera.* And thereupon Bushen coming to be tryed for his Life by the Petty-Jury, and Evidence being about to be given against him he desir'd, in respect of his Age and Deafness, and the then Noise of the Glass-Windows, by reason of a present Storm, and the Noise of the People, that he might have leave to come out of the Bar, and stand where he might hear what Evidence was given against him, that he might better answer for himself; which the Lord Sarsfield unjustly denied him. And Bushen being charged, that he himself put his Wife into her Winding-sheet, desir'd that such persons as did view her body after her death, and did wind her, might be heard to discover the Truth; the Lord Sarsfield unjustly denied that also; and Bushen then desiring that the Justice of Peace, who had taken the Examination of the Business, might be heard, the Lord Sarsfield denied him that

[Mr. Horne Tooke removed to the inner bar.]

Mr. *Shelton, the Clerk of Arraigns,* called over the pannel.

Major Rhode, esq. not a freeholder.
Charles Digby, esq. challenged by the prisoner.
Matthias Dupont, gent. challenged by the crown.
Nathaniel Wright, esq. not a freeholder.
Hugh French, esq. not a freeholder.
William Harwood, esq. challenged by the crown.
James Mitchell, ropemaker, not a freeholder.
Philip Godsal, gent. coachmaker.

Mr. *Erskine.*—I mean to challenge Mr. Godsal, but not by a peremptory challenge, I mean to challenge him for cause.

Lord Chief Justice *Eyre.*—What is your cause?

Mr. *Erskine.*—A declaration made by Mr. Godsal, which I understand, we are in a condition to prove; and if it is proved, I am sure your lordship will not for a moment conceive that he is fit to sit as a juryman upon this trial: a declaration made by him not very lightly neither, upon the second day of the trial of the person who was acquitted in this place, that if he were upon the jury, he would hang every one of the prisoners.

Lord Chief Justice *Eyre.*—If you prove that, it will certainly disqualify him.

Mr. *Erskine.*—Call James Berry.

James Berry, sworn.—examined by Mr. *Erskine.*

What are you?—A clerk at the Oracle office.

Do you know Mr. Philip Godsal?—I do not know him personally, unless I was to see him.

Look round; do you know that gentleman?—I cannot say that I recollect his person.

Did you see any person who called himself by that name?—A person who I understood was of that name.

How did you understand that?—By being told that that gentleman's name was Godsal.

But you cannot swear to his person?—No.

Who told you that his name was Godsal?—A young man who was present at the time.

Who is that young man?—Mr. Harman.

Mr. *Attorney General.*—Where does Mr. Harman live?—At Mr. Bell's.

Did Mr. Harman know you were coming here this morning?—No: I did not know myself till this morning.

Did you know what you were coming here about?—I was told by Mr. Clarkson when he sent for me.

Did you mention this thing to any person after you had heard it?—Yes.

To whom?—To a Mr. Brown,

Where does he live?—I do not know; I was in company with him; I think he lives in Blackmoor-street, Clare-market, but I am not certain.

When were you sent to to attend here this morning?—I received a note last night, when I came home, from Mr. Clarkson, requesting me to call upon him this morning.

You called upon him then?—I did.

Did you inform Mr. Clarkson that Harman was the person who told you it was Mr. Godsal?—I did not.

Did you inform Mr. Clarkson that you did not know Mr. Godsal?—I told him I had never seen him before.

Mr. *Erskine.*—But you thought you should know him again?

Mr. *Godsal.*—I think my character ought to be vindicated in this matter, and that man ought to be punished for bringing this matter against me.

Berry.—What I said I am willing to swear to; I do not know how it was represented to the Court before I came in.

Mr. *Attorney General.*—You are clerk to Mr. Bell's Oracle?—Yes.

Are you a member of any of these societies?—No.

Mr. *Erskine.*—Then I must peremptorily challenge Mr. Godsal.

James Haygarth, esq. sworn.
Mark Hudson, esq. challenged by the prisoner.
John Mandell, gent. not a freeholder.
Henry Bullock, brewer, challenged by the crown.
John Powsey, carpenter and surveyor, challenged by the prisoner.

Request also. And the Petty-Jury, after going together, and staying somewhat long, the Lord Sarsfield sent them word, that if they would not agree and come away, he would carry them with him next day in a Cart; and being told that they were all agreed but one, he sent a Message to the Jury inciting them to pinch that man that would not agree; to pull him by the Nose, by the hair of the Head, and by the Beard; and bid the Jury make much of him that night, and that he would make much of him the next day; and sent that one Man word, that it had been better for him to agree. And soon after these threatening Messages delivered to the Jury, and they knowing the Usage of the former Jury, did, upon light evidence of Hear-says only delivered by Bealing and others, find Bushen guilty of the Murder of his Wife, and he was condemned and executed for the same, when as it clearly appeared she died of a natural death and disease of the Bloody Flux. And for this foul Carriage, the lord Sarsfield Viscount Kilmallock was committed to the Fleet during his majestie's pleasure, fined 2,000*l.* to the King and 1,000*l.* damage to Bushen the Relator: Bealing, Knight for his manifous prosecution devilish practice and attempt to get other men of power into his wicked prosecution, was committed to the Fleet fined 500*l.* and to pay 250*l.* damage to Bushen the Relator.

George Capes, esq. not a freeholder.
Thomas Rhodes,* cowkeeper, excused on account of illness.
Richard Croft, banker.

Mr. *Croft.*—My name is Thomas, I am summoned by the name of Richard.

Hugh Ronalds, esq. challenged by the prisoner.
Edward Antrobus, not a freeholder.
Thomas Harrison, cowkeeper, sworn.
John Leader, gent.

Mr. *Leader.*—My lord, I have a violent cold.

Lord Chief Justice *Eyre.*—I will excuse you for the present, but you must not go away.

John Guest esq. excused on account of illness.
Adam Steinmetz, biscuit baker, excused, having served on the trial of Thomas Hardy.†
Robert Hawkins, coal merchant, excused on account of age.
Robert Kilby Cox, esq. challenged by the prisoner
James, Payne, esq. challenged by the crown.
John Mercer, mealman, excused, having served on the trial of Thomas Hardy.
John Rixon, cooper, challenged by the crown.
Thomas Sayer, esq. excused, having served on the trial of Thomas Hardy.*
Richard Carter, esq. excused, having served on the trial of Thomas Hardy.
Thomas Matthews, esq. not a freeholder.
Edward Hale, gent. sworn.
George Fillingham, hopfactor, challenged by the prisoner,
William Perry, esq. challenged by the prisoner.
Richard Gough, esq. excused on account of illness.
Thomas Skipp Dyott Bucknell, esq. challenged by the prisoner.
Edward Jennings, esq. not a freeholder.
George Sewell, gent. not a freeholder.
Nathaniel Stonard, brewer, excused, having served on the trial of Thomas Hardy.
Samuel Provey, esq. not a freeholder.
Thomas Allen, brewer, challenged by the prisoner.
John Baker, esq. challenged by the prisoner.
Samuel Pullen, gent. challenged by the prisoner.
James Smith, esq. challenged by the prisoner.
Bryan Marshal, gent. excused on account of illness.
Joseph Nichol, gent. farmer, excused, having served on the trial of Thomas Hardy.
David Roberts, esq. challenged by the prisoner.
Thomas Smith, esq. challenged by the prisoner.
John Charrington, esq. excused, having served on the trial of Thomas Hardy.
Thomas Allen, esq. challenged by the prisoner.
Andrew Burt, esq. challenged by the crown.
Charles Smith, distiller, challenged by the prisoner.
George Gosling, esq. and banker.

Mr. *Gosling.*—I have been summoned to attend; I do not live at Twickenham, nor am I a banker; there is a gentleman at

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* In Blanchard's report of this trial I find the following account of what took place previously to Rhodes being excused:

Thomas Rhodes.—I am a freeholder and copyholder. I hope your lordship will excuse me; I am subject to a pain in my head, that I shall not be able to attend; I am subject to it if I am confined, being so much in the air.

Court.—That apprehension is too distant; every juryman may apprehend that a confinement of this kind may injure his health.

Thomas Rhodes.—I hope you will not think me impertinent, that I must forfeit my fine.

Court.—You being present in court, cannot forfeit your fine.

Thomas Rhodes.—It is impossible for me to do the duty.

Court.—If you think not to answer that on oath, I am surprised you should not hesitate to allege this in the presence of such an audience as this.

Thomas Rhodes.—I have declared that I am very subject to a head-ache.

Court.—Why do not you say it on your oath.

Thomas Rhodes.—I am very ready, if your lordship will permit.—(sworn).

Court.—On the oath you have taken, is your health such, that you are not capable of going through the fatigue of this trial?

Thomas Rhodes.—I am confident that I have such an head-ache, that I should be incapable of recollecting almost any thing.

Court.—I am not quite satisfied with your manner; but, however, you are discharged.

† It is proper to be noticed that the *merely* having served as a juryman in Hardy's trial was not the reason why Mr. Steinmetz was excused from serving on the present occasion; as appears by the following extract from Blanchard's account of this trial:

"*Adam Steinmetz.*—I am a freeholder of 10*l.* a year. My lord, I had the pleasure of attending here the last jury, I found myself very ill. I am not not capable of continuing, I am sure, on this trial.

"*Court.*—I am sorry you ask to be excused, because I do not wonder that duty was so heavy as to affect the health of any gentleman; it is impossible that you should be pressed, if you decline; the Court will excuse you, undoubtedly, if you ask it."

* It appears by Blanchard's report of this case, that, as the reason for requesting to be excused, Mr. Sayer declared that he had served on the last jury, that he had been ill ever since, and had not yet recovered; a similar declaration was afterwards made by Mr. Charrington; all the other gentlemen who, having served on the trial of Hardy were excused from serving on that of Tooke, were excused in like manner at their own request.

Twickenham who is a banker of the name of Gosling, but his name is not George. I am a proctor in the Admiralty.
William Nicoll, farmer, challenged by the prisoner.
Edward Franklin, farmer, excused on account of illness.
Michael Henly, coal merchant, challenged by the prisoner.
Edward Champion, esq. not a freeholder.
Francis Jenks, gent. not a freeholder.
Joseph Anslie,* esq. excused, having served on the trial of Thomas Hardy.
John Mashiter, wharfinger, challenged by the prisoner.
John Liptrap, esq. challenged by the prisoner.
Theophilus Pritzler, sugar refiner, not a freeholder.
Charles Turner, sailmaker, not a freeholder.
John Harrison, gent. challenged by the prisoner.
John Battye, esq. challenged by the prisoner.
David Duveluz, not a freeholder.
James Stephens, esq. challenged by the crown.
James Crane, esq. challenged by the prisoner.
Rice Davies, esq challenged by the prisoner.
Cecil Pitt, esq. excused on account of age.
Isaac Lucas, esq. not a freeholder.
Thomas Draine, brewer, sworn.
Arthur Shakespear, esq. challenged by the prisoner.
John Jenkinson, esq. not a freeholder.
James Sheredine, esq. challenged by the prisoner.
John Mayhew, esq. challenged by the prisoner.
Emanuel Goodheart, sugar refiner, challenged by the prisoner.
Matthew Whiting, sugar refiner, sworn.
Castin Rhode, esq. not a freeholder.
Christopher Richardson, timber merchant, excused on account of illness.
Jonathan Eade, esq. challenged by the prisoner.
James Keene,* grocer, challenged by the prisoner.
John Butts, esq. not a freeholder.
Thomas Cockington, esq.

Mr. *Cockington.*—My name is James.

Henry Goodwin, esq.

Mr. *Goodwin.*—I am described in the summons as living in Saint Catherine's; I do not live in Saint Catherine's, but in Lower East Smithfield.†

John Peter Blaquire, esq. challenged by the prisoner.
David Dean, cheesemonger, challenged by the prisoner.
Norrison Coverdale, ropemaker, sworn.
Robert Mairis, gent. sworn.
William Cooke, esq. sworn.
Charles Pratt, miller, sworn.
Thomas Druce, stationer, not a freeholder.
Thomas Maude, esq. not a freeholder.
James Shrapnell, silversmith, not a freeholder.
Benjamin Bradbury, gent. not a freeholder.
Christopher Metcalfe, esq.

Mr. *Metcalfe.*—I do not live at Bromley, in the county of Middlesex, as I am described in the panel, but at West Ham, in Essex.

John Thompson, brewer, not a freeholder.
Thomas Lewis, esq. not a freeholder.
Nathaniel Allen, ship chandler, not a freeholder.
Edward Hill, gent. challenged by the prisoner.
Cam Farmer, gent. excused on account of illness.

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* According to Blanchard's report of this case, the name of John Thompson was here called, on which, "A person answered, that he was cited to the Commons, and he had heard Mr. Thompson say that he had lived in a degree of intimacy with Mr. Tooke, and therefore he did not like to be on the trial.

"Mr. *Tooke*—I have been intimately acquainted with Mr. Thompson; his family and my family have been so for thirty four years back.

"Lord Chief Justice *Eyre.*—[erroneously called by Blanchard *Lord President.*]—It must not be understood that because a person summoned on the jury was formerly acquainted with the prisoner, that therefore he is not to be on the jury.

"Mr. *Tooke.*—I believe he keeps away fearful that it should be thought he should act through partiality."

* In Blanchard's report of this trial, it appears that with a view to being excused from serving as a juryman, Mr. Keene said; "I am one of the collectors of the king's taxes, and it is just the time of finishing up the books, and I do not know what the consequence may be if I should be obliged to serve.

"Lord Chief Justice *Eyre.*—The only consequence will be that you may finish them afterwards.

"Mr. *Erskine.*—I do not wish to disappoint the revenue; I challenge him."

† This is differently reported by Blanchard, who states it thus:

"Mr. *Goodwin.*—I beg leave to observe to your lordship, that I do not wish by any means to skreen myself from the duty, but I feel it my duty to inform your lordships and the Court, that I am not summoned according to the way I spell my name, nor in any place where I reside. My residence as a brewer is in Lower East Smithfield, and I am summoned as living in Saint Catherine's; I spell my name with a *y* in Goodwyn, and it is spelt with an *i* in the summons.

"*Clerk of the Court.*—It is with a y in the panel.

"Mr. *Erskine.*—I object to him on the account that he is not well described as to his place of residence.

"Lord Chief Justice *Eyre.*—If the prisoner's counsel objects we cannot force him.

James Crompton, paper-hanging maker, excused on account of illness.
John Lovett, gent. not a freeholder.
John Peavey, cooper, not a freeholder.
Thomas Gildart, esq. challenged by the prisoner.

Mr. *Shelton*.—My lord I have gone through the panel, and there are but nine jurors sworn.

Lord Chief Justice *Eyre*.—Call over the defaulters.

[Mr. *Shelton* called over the defaulters, when Henry Purrier, esq. appeared.]

Mr. *Purrier*.—My health will not permit me to serve on this trial.

Mr. *Erskine*.—My lord, this is a gentleman of whom I know nothing; and if it is your lordship's ultimate judgment that he should serve upon the jury, I shall be perfectly satisfied; but I shall submit this to the judgment of the Court. We have expended all our challenges. In the course of our challenges different gentlemen made excuses, which they submitted to the consideration of the Court; and your lordships, with your usual justice and indulgence, let them be excused. It was not possible for my learned friend or myself, as counsel for the prisoner, to know what number of the inquest would appear, nor what number that did appear would be disqualified for want of freehold, or what number would be disqualified for want of health, so that we were under the necessity of acting as appeared best at the moment: *non constat*, that we might not have chosen to challenge this gentleman, rather than some others that we have challenged. No man certainly, in his senses, would waste a challenge, which is given upon so awful an occasion as a capital case: and having only thirty-five challenges out of a panel consisting of above two hundred jurors; with a privilege in the crown also to challenge those whom we might not be disposed to challenge. I repeat again that no man in his senses, would throw away a challenge upon a juror who had disqualified himself, who had claimed an indulgence of the Court, and was in the course of receiving it; therefore, your lordships observe that I go on and take my challenges.

Mr. *Attorney General*.—You may wave any one of your challenges, and challenge this gentleman if you please.

Mr. *Erskine*.—This is rather extraordinary; what, I am to wave a challenge I have made and take a gentleman whom I have already challenged? I rather would wish to appeal to the practice of former times, than to offer to your lordship any construction of my own upon the statute; but I cannot conceive a more hard case than it will be upon the prisoner, if he is, after a certain number of jurors are empanelled, and are now in the box, to be called upon to retract a particular challenge. My application to your lordship is, that the crown shall now, to prevent the inquest being untaken, be called upon to assign, in the language of the statute, cause for their particular challenges.*

I will take it another way—when the crown assigns no cause, your lordship ought to take it that there is no cause; and although the indulgence of the law to English subjects who are accused and standing upon trial for their lives allows them, without any cause, if they feel any thing in their own mind that they cannot express—if even they see in the countenance of the person something they do not like, the indulgence of the law allows a peremptory challenge—the indulgence of the law allows no such challenge to the king; undoubtedly the construction which the judges have put in other times upon that is, that the inquest shall not therefore remain untaken; and in this case your lordship is placed in this predicament—either you must decide that, notwithstanding the infirmity of the juror, which leads him to ask your lordship's indulgence, he shall, nevertheless, be put into the box, and serve upon the trial; or, that your lordship shall call upon the crown to say, whether there be any foundation for their challenges.

Supposing that this should happen in another case (and your lordship will recollect, that if I am over-ruled in this I must be over-ruled in all), and that the jury must, therefore, be filled up with persons in the predicament I have already alluded to, in this most extraordinary species of trial, which no man living, I will venture to say, can foresee the duration of, or the inconvenience that the health of individuals, even strong men, may endure in the course of the trial. I trust your lordship will certainly think yourself bound rather to call upon the crown to assign the cause for their challenges, than go to the other alternative, of obliging a gentleman in ill-health to serve. I beg to be understood that I say this without the smallest objection in the world to the gentleman who now stands before the Court, and if your lordship overrules the objection, as far as relates to him, I shall undoubtedly be satisfied.

Mr. *Gibbs*.—The nature of our objection, as I conceive, is this:—The prisoner is entitled to his challenges to all those who are on the panel, in the order in which they stand on the panel; and it may be, that those gentlemen who, when called, were excused for the present, may be persons whom the prisoner would rather have challenged than those that followed.

Mr. *Purrier*.—I believe I can save the Court some trouble; I have laboured under a complaint that makes it impossible for me to serve on this trial. At the time of Hardy's trial I could not have staid in the court five minutes; for if I had staid longer than I did, I should have been carried out with at least

* See the case of Peter Cooke in this Collection, Vol. 13, p. 318. See also the case of Spencer Cowper, p. 1108 of the same Volume.

a suspension of all my faculties; I am sure of it, from the sensation that came over me. I was once very near fainting at the Asylum, and in fact I am so in all crowded places. This is a fact I could have brought sufficient testimony of.

[Mr. *Purrier* sworn upon the *voir dire.*]

Lord Chief Justice *Eyre.*—Your state of health is such that you believe yourself to be incapable of going through the fatigue of this trial?

Mr. *Purrier.*—I verily believe it. I am sure of it.

Lord Chief Justice *Eyre.*—You are excused.

Mr. *Tooke.* I do not mean to argue with your lordship and the counsel, but I find myself compelled to tell your lordship that I should, if I had not been over-ruled by the superior judgment of my counsel, have contended very early against the challenges of the Crown. The statute of 33 Edward 3rd, completely bars what they have done, although I know that subsequent judicial decisions have permitted the counsel for the crown to challenge, without showing their cause, until the panel is gone through; the panel is now gone through of persons in health. However, I should not now have addressed you if I had not a farther reason.—My lord, I hope that I shall be the most infirm man in this court, because I feel much more anxiety for the preservation of the criminal law and practice of the land, than I do for any hazard that attends me upon this trial.

My lords, I have been in this case, and I dare swear that your lordships have, and the jury too—that when I have intended to travel a long accustomed road home to my own house, some sudden distraction of the thought has made me inattentive to the passage; when I have come to myself, and my attention has returned, I have observed that there were not those objects, the house, the gate, the style, or the gap I had been accustomed to see, and instantly I have recollected that I must be out of my road; then I have stopped, and have gone back, because the accustomed succession of objects did not occur. The same thing happens upon these proceedings; see where we are; nine days upon a trial—the jury pass and return day after day without clean shirts, unshaved—the judges quitting the court, and returning again and again—a question put upon what shall be done, in this strange and unknown case, for the jury—no question put what shall be done for the judge. An English jury, fairly and impartially taken, I have always believed to be as incorruptible, and as little likely to be tampered with, as any judge whatever: the judge is compelled to stay as well as the jury; if the jury go unshaved and unshirted, so must the judge; it is true, that when the jury retire from the court somebody goes with them as keeper; the judge is likewise in custody upon the bench, and the eyes of every person in court are his keepers.

My lords; upon this occasion every part of the criminal law and practice of this country is totally destroyed and gone; for if the crown, with the monstrous range of influence that it has now, superior to what it ever had at any other time—if the crown, with the influence it has upon the officers who make the panel, together with every other influence that I will forbear to mention—if the crown should take the advantage of a practice found fault with, I remember, by Williams, in a particular case, where he said, it is true, such things have been suffered at the time that small panels were returned, but you have returned to me now upwards of a hundred;* and there are returned in this case two hundred and twenty-eight, the proportion of the power of the crown in such returns as this is exceedingly great; for with thirty-five challenges, if they returned seventy, the crown would only have an equal share, or perhaps not so much; but to allow the crown an unlimited challenge out of two hundred and twenty-eight, when the prisoner can only challenge thirty-five!—My lords, look back, see what is become of your criminal jurisdiction; if you do not, as in the common affairs of life, see that succession of objects to which you have been accustomed—My lords, stop, turn back, you must be in the wrong road. The glorious structure of the English criminal law is such, that you cannot take out a stone but the whole must come tumbling about your ears; it must tumble now if this practice is allowed. I for myself hope that no infirm gentleman shall be taken upon this jury, because I had rather die where I stand than consent that the jury and the judge† shall quit this place till the cause is gone through. I do therefore beg that the jurors may be men in health, that they may not suffer in doing their duty, but that I may be the first victim. The law never intended that the crime of high treason, which ought to lay in the palm of your hand, should take up five days in the proof; therefore I beg your lordship will be so good as to let me die in this place, rather than that the whole criminal law and practice of this country should be destroyed; I beg that no infirm man may be upon my jury, and that your lordships will turn your thoughts to the situation into which this country is brought—that you will stop, and turn back, and get into the right road.

Lord Chief Justice *Eyre.*—I do not see to what this address goes.

* It appears that in Sidney's case the panel consisted of eighty-nine names; see Vol. 9, p. 824, of this Collection. In the case of lord Russell, the panel contained upwards of a hundred names; see Vol. 9, p. 583. See, also, Noble's case, Vol. 15, p. 758.

† See Hardy's case, Vol. 24, p. 414; and the case of lord Delamere there cited.

Mr. *Tooke.*—That the crown shall give their cause of challenge before an infirm juryman shall be taken. The panel is gone through. I am not much accustomed to these addresses to the bench; I hope you will forgive me if I have not been so correct as I ought to be. The crown have by favour, contrary to law, been accustomed to do what they have done, and therefore I bore it—I bore it because I was over-ruled by these gentlemen, in whose judgment I place my life and fortune, not knowing the practice, or caring so much for the practice as I do for the law, which I have read with my eyes open, and the language is as intelligible to me as to any gentleman of the profession. I am firmly persuaded the law is on my side. I forbore to object to the challenges for the crown, in the first instance, being made without cause shown; but the panel has been gone through, our challenges are exhausted, and there are only infirm jurymen to make up this panel; therefore I think I am entitled to call upon the counsel for the crown to state the cause of their challenges; and that I may have those good men whom they have rejected without cause at all, unless their cause is sufficient to support the challenges they have made.

Lord Chief Justice *Eyre.*—Your counsel advised you very properly not to resist the challenges for the crown, in the course in which those challenges have been taken. As far as our legal history affords us any information upon the subject, the course is a clear one; the crown has no peremptory challenge, but the course is, that the crown may challenge as the names are called over, and is not bound to show the cause of the challenge until the panel is gone through; that is the course of proceeding, which is now so established that we must take it to be the law of the land. At the same time I feel that the circumstance, which is become absolutely necessary, of making the panels vastly more numerous than they were in ancient times, might give to the crown an improper advantage, arising out of that rule; and whenever we shall see that improper advantage attempted to be taken, it will be for the serious consideration of the Court, whether they will not put it into some course to prevent that advantage being taken. I do not perceive at present that there is any complaint that an ill use has been made of this power in this instance. How many have been challenged on the part of the crown?

Mr. *Shelton.*—Seven.

Lord Chief Justice *Eyre.*—Therefore, I say, it does not appear to me that any improper advantage has been taken.

Mr. *Tooke.*—Seven is a majority of my jury.

Lord Chief Justice *Eyre.*—It does not appear to me at present that an improper advantage has been taken by the crown; therefore, we must see what the rule is.—The rule is, that when the panel is gone through, if there be not a sufficient number left to serve upon the jury, the crown is to show the cause of its challenge. The panel is gone through now as I take it; we reserved two or three cases of persons who had desired to be excused; their excuse was of a kind which hardly called upon us in strict justice to dispense with their service; at the same time, if there were enough upon the panel to serve, the Court were inclined to listen to that excuse. The question now is, whether they are to be called upon to serve, before the crown shall be put to assign the causes of its challenges.

Mr. *Tooke.*—I only mean to suggest to your lordships an acknowledged infirmity, and the prospect of a trial of two hundred hours.

Mr. *Attorney General.*—Your lordship observes, on calling over this panel, that nearly one-half are either disabled by ill-health, want of qualification, or by other reasonable excuse from serving. It has occurred in the course of this trial, that after the jurors were called over the first time, the names of the defaulters were not called over the second time, which I believe has been usual. In the course of what my learned friend stated to the Court, they who sit by me will do me the justice to say, that I really felt that the prisoner might be put into circumstances in which I would not wish to place any man, by calling a person into the box in order to be sworn after his thirty-five challenges had been taken; and I feel it in this way, namely, that he may perhaps have challenged A, when he would have challenged B instead of A, and that, therefore, he is put into this situation—that he must wave a challenge which he has before made with consent, or without consent, and then that he must take a gentleman upon his jury with a sort of uneasy sensation in the mind of that gentleman perhaps, because he has been challenged. I was just about to get up to state to your lordship, that I did feel that in this stage of the business, without travelling into a great deal of matter, which does not appear to me to have an immediate application to the subject, I am ready to admit the objection of my friend Mr. Erskine. But, at the same time, I must humbly ask that the names of the defaulters should be called over; because I think it necessary to the administration of justice, that gentlemen, who seem to have no reasonable excuse for non-attendance, should understand that the justice of the country requires that they should attend, and that that information should be given them in the proper way. I am also fairly to state to your lordship, that I certainly did not foresee, with such a large number of individuals upon this panel, that I should be called upon to show cause for my challenges. I am very desirous that this trial should proceed; and, therefore, I now wave my objection to every one of the persons I challenged.

* See this discussed in the trial of O'Coigly and others, A. D. 1798, reported in this Col.

The three following gentlemen were again called:

Matthias Dupont sworn.
William Harwood, sworn.
Henry Bullock, sworn.

THE JURY.

James Haygarth,	Robert Mairis,
Thomas Harrison,	William Cooke,
Edward Hale,	Charles Pratt,
Thomas Draine,	Matthias Dupont,
Matthew Whiting,	William Harwood,
Norrison Coverdale,	Henry Bullock.

Mr. Shelton charged the jury with the prisoner in the usual form.

The Indictment* was opened by the hon. *Spencer Perceval.*

Mr. *Solicitor General* [sir John Mitford, afterwards lord Redesdale].—May it please your lordship—Gentlemen of the Jury; You have heard the indictment against the prisoner at the bar read, and you have heard it stated to you. I therefore shall not detain you by restating it at large. I shall simply observe, that it charges the prisoner with the crime of high treason, in compassing the death of the king, laying as overt acts of that treason, as the law requires, various different acts, which it imputes to the prisoner, any one of which, if proved, will require you to give your verdict, that the prisoner is guilty of that treason. The main tendency of these acts is a conspiracy to subvert and alter the legislature, rule, and government of the kingdom, and to depose the king from his royal state, power, and government.

Gentlemen, the law upon this subject is perfectly clear, namely, that any act done, the consequence of which may endanger the life of the king, is taken to be an act done in pursuance of an intent to compass the death of the king, demonstrated by the act, and is the crime of high treason.

Distinct imagination of personal harm to the king does not necessarily form any part of this charge; nor is it material whether a person so charged has in his contemplation all the consequences of that which he is about to do; it is sufficient if such are the probable and ordinary consequences of that which he is about to do. It has therefore been held, that conspiring to depose the king is clearly an act of high treason, because it is an act which, in its consequences, tends to bring the king's life into danger. Conspiring, in any degree, to deprive the king of his royal authority, so that those who ought to be subject shall command, and the king shall be compelled to obey authorities which the constitution of the government has not required him to obey, that is a conspiracy to depose the king, and has been uniformly held to be high treason.

I shall not therefore, gentlemen, detain you with any discussion of the law upon the subject, because I take it to be so clear and plain, that if, according to your belief, the charge of a conspiracy to subvert the legislature, rule, and government of the kingdom, and to depose the king from his royal state, power, and government, is proved, the consequence must necessarily follow (supposing the prisoner to be brought within the charge) that he is guilty of the crime of high treason.

Gentlemen, I feel, I very deeply feel, the importance of the case before you; and, feeling it, I feel my own insufficiency for the task imposed upon me. I know not what may be the consequences of the event of this trial. Whether the constitution, to which a great majority, I trust, of the people of this country, are firmly attached, is to be defended by the law of the country, or whether those who have formed that attachment may be compelled to rally round its standard, and to defend it by their own arms, and their own force. I hope, and trust, no such event will happen. But, feeling as I do, I am oppressed by the weight of the cause which I have to state to you.

Gentlemen, I attribute to the prisoner, together with others, a conspiracy to depose the king, a deliberate plan to subvert the constitution of the sovereign power as by law established, and to execute that plan by his own force, and by the force of those whom he hoped to draw to his assistance. This, gentlemen, whatever the object was to be; whatever the consequences; whether it was to establish one form of government or another; whether to effect one sort of change, or another, is, I conceive, unquestionably deposing the king, depriving him, for that purpose at least, of his royal state, crown, and dignity; and making him, who is to command, to obey.

Whether, therefore, it was in the contemplation of the prisoner to form a new government, of one kind, or of another, a government of King, Lords, and Commons, constituting any part of that government, different from what it now is, or a government by a king, and one general assembly, or by a general assembly without a king, or lords, for the purpose of this charge it is exactly the same thing; it is altering the constitution of the established government, by a power which, according to that constitution, cannot be permitted to alter it; namely, by the force of individuals, and not by legislative acts of the constituted power itself.

After the length of time which has elapsed, even from the act of summoning you to the situation in which you now stand, and especially considering what the length of the present trial may be, I will not detain you, by opening to you, in detail, the evidence which will be offered. I shall endeavour to confine myself to a general outline, which, I hope, will enable you, as the evidence shall be

* See Vol. 24, p. 224.

offered to you, to combine the several parts, to apply them to the subject, and to understand the whole, drawing from it that result which I conceive ought to be drawn from it.

Gentlemen, as I stated to you, I attribute to the prisoner, and those with whom he was engaged, a conspiracy to effect a change in the sovereign power of the state, by their own force.—That sovereign power, you well know, according to the constitution of our government, is formed of the King, Lords, and Commons, in parliament assembled, in matters of legislature; of the king alone, acting in the several ways which the constitution requires in the administration of the government.

I attribute to the prisoner at the bar, that, for the purpose of accomplishing that conspiracy with which I charge him, he, and those with whom he was associated, had quarrelled, not merely with the administration of the government of the country; not merely with the frame of the constitution of that government, but even with the principles upon which that constitution was founded; their objections, therefore, were radical and entire. They asserted that no government could be lawful, but a government founded upon what they termed the Rights of Man. The consequence of that position, if true, must necessarily be, that, as every other description of government is in itself unlawful, it is the duty of every man to destroy every government so unlawfully constituted; and it must occur immediately to you, gentlemen, that this consequence must necessarily produce universal confusion; for, according to their own declarations, there exists no government perfectly constituted.

If such was the design of those who were engaged in the conspiracy which I have mentioned, every act towards the accomplishment of that design I conceive to have been an overt act of high treason against his majesty and his government; for it was an overt act towards accomplishing a design, which design had in view the subversion of the constitution of that government; and necessarily had that subversion in view, because those who formed it declared, that the government itself was founded on principles on which no government ought to stand, or could be permitted to stand.

Gentlemen, I well remember, when those who were alarmed by what had been passing in France were told that their alarm was ill founded; when it was said to them, Why are you alarmed at what is passing in France? The situation of the two countries is totally different. In France they had no government which could form the subject of the attachment of the people—they had a government which was in principle tyranny—a government detested by all people, and which therefore fell the moment it was attacked—for governments can only subsist in the opinion and in the love of the people—but the British government is a government firmly and deeply rooted in the hearts of the people, and therefore you have no cause to fear.

The argument was just; and the prisoner at the bar, and those who were engaged with him, felt the truth of the argument, and held it out themselves to the world, though they determined to destroy the foundation of it—they determined to destroy that attachment, that opinion, which they themselves stated to be the security of the British constitution, and to constitute the difference between the situation of this country and the situation of France. For this purpose they taught that no government could be lawful, but that which was founded on what they called the Rights of Man; which they interpreted to include, amongst other things, the right of equal, active citizenship. The right of equal, active citizenship, was inconsistent with the principles of the British government; for the right of equal, active citizenship, cannot exist with an hereditary king, or an hereditary House of Lords; the moment therefore it was said, that equal, active citizenship was a right of man, an indefeasible, imprescriptible right of man, and that no government could lawfully exist, which was not founded on the principles of the Rights of Man, it was said that the British government was unlawfully constituted; that, therefore, the subjects of that government could not lawfully be bound by it; and the position tended instantly to destroy, not only the faith of that allegiance which we all ought to bear to the government of our country, but it tended also to destroy all that opinion upon which alone it was stated, that there existed so marked a difference between the situation of this country and that of France. The moment the people could be induced to believe that the government, as established, was not that to which they ought to be attached, but on the contrary, was a government founded on injustice and oppression, in that very moment the situation of this country was become exactly the same as that of France; for what destroyed the constitution of the government of France, such as it was, but its total failure in the opinion of the people of the country?

Gentlemen, you will find, in a book that will be produced to you, what I have now been stating, enlarged upon, and stated with much more clearness, and much more precision, than I am able to state it to you; it is stated with great ability in a work of Mr. Joel Barlow.

Gentlemen, the people were taught, in consequence of this doctrine, that they were slaves; that their government was not, as they imagined, a free government, but a government of conquest, of usurpation; that its consequences were not those which we had been long led to suppose them to be—as much freedom as generally speaking was thought to be consistent with good order—but that it was a complete system of slavery

and oppression; they were taught, likewise, that from this slavery and oppression they must emancipate themselves.

If this doctrine had been established in the minds of the people, a great length would have been gone in making way in their minds towards the absolute subversion of the existing government; and I must here observe, that it is immaterial to your consideration, whether the prisoner at the bar thought the principles which I have stated just or not, or whether he meant to establish a government founded upon those principles—whether he conceived that a government, founded upon the supposed principles of the Rights of Man, was, or was not, the best government which could be instituted—that seems to me, gentlemen, to be totally immaterial: he meant to use those principles to destroy the existing government. That is what I charge him with; and, if you should be of opinion that he meant to use the propagation of those principles as a means to destroy the existing government, and that he did propagate those principles, the charge, as I conceive, is complete. I must also observe here to you, gentlemen, that whenever persons conspire against the existing government of a country, it is impossible for them to be certain of all the consequences of their acts; it is impossible for them to say, so far we will go, and no farther; for, when the existing powers are destroyed, in the interval between that destruction and the erection of a new government, the country must necessarily be in a state of anarchy and confusion; and those who have been excited to the measures which have led to the destruction of the existing government, may have been excited by such a variety of means, by such a variety of objects; may have had such different passions, such different views to gratify, that no one man, no body of men, can venture to say where all the mischief will end. If we wanted an instance to illustrate what I have now been stating, there is a neighbouring country in which it is completely illustrated.

Gentlemen, the prisoner at the bar, and those with whom I charge him to have conspired, did not content themselves with simply endeavouring thus to destroy, in the minds of the people, their affection and attachment to the British government, by attacking the principles upon which it was founded, and by endeavouring to establish, as the only just principles of government, principles incompatible with that government; they made use of every other means which might answer the same purpose.

You all know, that a reform in the House of Commons has long been the object of public attention; that it has long been an object pursued with a considerable degree of eagerness by several different persons; and that various proposals have, from time to time, been made for that reform; proposals differing extremely in the principles on which they have been founded; some moderate, others more violent; and perhaps even their variety shows the difficulty of accomplishing any reform proposed. But the persons who are charged with this conspiracy never attempted to hold out to the public any plan of moderate reform of the House of Commons; they assumed one which has been generally esteemed in other countries—in those countries where there has been a body of representatives of the people, in America and in France, under the constitution completed in 1791—impracticable, or tending necessarily in its consequences to universal confusion; I mean the plan of universal suffrage.

Gentlemen, this plan had many things to recommend it to men who were engaged in the conspiracy, which I have stated to you; it was useful to mislead. It had originally, to a certain degree, the sanction of a considerable name—that of the duke of Richmond—and it had been frequently agitated. But you will recollect, gentlemen, that that was some years ago; that for a considerable time past it had been, by the majority of thinking people in the country, considered, as in itself, impracticable; and it was perfectly well known that the leading men, who form what is commonly called the opposition, in parliament, whatever views they might have of parliamentary reform, never conceived an intent of going to that extent; that, on the contrary, they were in general at least, extremely adverse to it. And it will be shown to you, in the course of the transactions which will be laid before you, that this was clearly and distinctly known to the persons who were engaged in the conspiracy I have mentioned; and particularly it was known that a man, of whose abilities I cannot possibly speak too highly, and differing, as I do, from him in many respects—a man, from whom in respect of abilities, I cannot withhold the utmost tribute of esteem—I mean Mr. Fox—it was well known that he was extremely adverse to it; that he conceived that the proposal of universal suffrage and annual parliaments, was, in effect, a proposition for universal confusion. You will find, therefore, that he was determined not to support a measure of that sort; but, on the contrary, when a petition to the House of Commons was offered to him by his constituents to be presented, containing a prayer to that effect, he declined presenting it, so far as he thought he could with propriety decline presenting it as coming from his constituents; he begged that he might not be called upon to present it, because he should conceive it to be his duty to oppose it.

Gentlemen, the prisoner at the bar was well aware of all these circumstances. He knew that if universal suffrage and annual parliaments were proposed to parliament itself, as a reform of the House of Commons, the proposal must be rejected; because in all probability, amongst all the advocates for re-

form, there would hardly be found one to vote for it. Gentlemen, this I conceive to be very important for you to consider; because, as it strikes me, it distinctly proves that reform in the House of Commons, by the existing legislature, was not the object of the conspirators. But it was therefore determined, that universal suffrage and annual parliaments should be adopted as a principle never to be departed from; and the people were to be taught to insist upon that, at the least; and they were likewise to be taught that if that was granted, all would follow. Gentlemen, I have no doubt of the consequence. I can have no sort of hesitation in my mind that every consequence of anarchy and confusion must arise from such a measure.

Gentlemen, knowing that such a proposition would never be acceded to by parliament itself, the insisting upon it as a principle never to be departed from, necessarily raised a perpetual bar against reform by parliament; because if they were determined to accept only that which they knew all parties in parliament would reject, it was impossible that they should seriously have in their view an intention of obtaining a reform by parliament. The consequence also necessarily was, that those in whom they had raised discontents, in whom they had raised a persuasion that universal suffrage was their unalienable right, that they ought to insist upon it, never to depart from it, that they were to urge it, as you will find by the papers that will be laid before you, at the hazard of their lives; the people to whom this was taught were necessarily also taught, that what they wished to obtain, they were to obtain by their own force. For there were only two ways by which it could be obtained, by an act of the constituted legislature, or by force; and if they were once taught that the constituted legislature never would accede to their proposition, the only alternative was clear; they were to effect their purpose by their own force.

But, gentlemen, these conspirators went still farther, for they taught the people that parliament *could* not reform itself; that a reform of any part of the constitution of the government could only be made by the people assembled in what was called a constituting assembly. And if you look through the works of Mr. Paine, particularly, you will find this doctrine clearly, distinctly, and repeatedly laid down; that parliament *could* not reform itself; that it was contrary to the nature and constitution of parliament; and particularly alluding to a bill brought into the House of Commons for that purpose by Mr. Pitt, it was asserted by Mr. Paine, that that bill proceeded upon a totally wrong principle; for that it was impossible for the parliament to reform itself. Gentlemen, if it was impossible for the parliament to reform itself, and if the parliament needed reform, the reasoning was clear, decisive, and conclusive; that a reform was only to be effected by the people acting for themselves. And it must also appear to you that the people cannot act for themselves but upon the dissolution of the existing government, and of that legislature which, according to the constitution of the existing government, ought to act for the people.

The terms, "universal suffrage and annual parliaments," were capable of being applied not only to the House of Commons, but to both Houses of parliament, or to all the branches of the legislature. They are general terms, capable of that extended application; and you will find, in the course of the evidence which will be laid before you, that the terms are never distinctly applied to the House of Commons alone; and, on the contrary, that the terms are frequently so used, that you can have no doubt that they were meant to be applied to both Houses of the legislature; and that in truth they were, indirectly at least, applied to all the three branches of the legislature.

These terms are particularly so applied, in some of the papers which will be submitted to you, and in a manner upon which it is impossible to form a doubt. Because when principles are first laid down totally incompatible with the existence of any hereditary body, and when the term, "universal suffrage," is applied to a parliament constituted upon those principles, the result is necessarily clear and plain. You will find it asserted, that the civil rights of every individual are equality of voice in making of laws, and in the choice of persons by whom those laws are to be administered. Then you will find it asserted, that a total departure from this principle of equality in the election of the legislative body, commonly called the House of Commons, is the chief cause why the people of Great Britain now are deprived of the benefit of the foregoing principles, and of universal suffrage; and you will find accordingly, in papers which will be produced to you, that when a parliament is spoken of, it is spoken of in the aggregate, as the people's parliament, and wholly elective.

When the minds of men were led to this point; when they were led to conceive that universal suffrage was their indefeasible right —even independent of the principle, to which I can give no epithet but the mischievous principle of equal active citizenship, especially when applied both to the formation of the legislature, and to the administration of the laws, because it necessarily includes a completely elective government,—but independent of that principle, the moment it was established that universal suffrage, even applied to the House of Commons only, was the unalienable right of all men; when it was known that the existing legislature would not concede that point; and when it was likewise taught to the people, that the legislature could not reform itself, even if so disposed, the minds of the people were brought to, and perfectly ripe for, the overthrow of the British

constitution. And if the dissemination of these principles had proceeded to such an extent as to work their way amongst a very large body of the people, you must be sensible, gentlemen, that nothing but extreme confusion could follow.

Gentlemen, there are many men who are not likely to be greatly moved by mere speculative opinions; therefore the Rights of Man, the rights of equal active citizenship, the right of universal suffrage, were not likely alone to work upon the minds of a great number of people; those, therefore, were to be worked upon by other means, and every subject was seized which could be used in order to enflame: tythes, for instance; the inclosure of commons; the public debt; the public expenditure; the expense of a monarchy compared with the cheapness of a republic; every article of this sort you will find made use of for the purpose, and avowedly for the purpose, of working upon the minds of those men who were too stupid, as it was said, to be worked upon by more liberal means, by applying their reason to the principles of government. The poor were taught that they were oppressed by a combination of the rich; and to the rich, in which description seem to be included all that had any property, was given the name of aristocracy. By these means it was endeavoured to set the poor against the rich; and it was endeavoured to excite those who had nothing, to aim at taking that which other men possessed, because (it was alleged) the means by which they had become possessed of their property were not lawful means.

Gentlemen, you must all see that if we are to advert to the origin of the title of every man to the property which he has, and if that is to be scrutinized to the utmost, it will be difficult to say what property is safe, or upon what principles it shall be said that such a man has a just title to his property, and such a man has not. The rule that has generally been hitherto considered as a safe rule in every country has been, that every man has a just title to that property which the laws of his country support him in the enjoyment of; and if we are to go beyond that, into any speculative investigations of the subject, it is impossible to say where they will end. And if, gentlemen, you advert to what has happened in France, you will see the necessity of adhering strictly to the principle which I have stated, namely, that a man has a right to that property which the laws of his country say he shall be protected in the enjoyment of; for in France persons have been stripped of property under pretence of titles which, if ever they existed, could not have existed for centuries.

If, however, the minds of men could by any means be inflamed—those minds which were capable of being acted upon by speculative discussions of the Rights of Man—the principles of government—or those grosser minds which were to be worked upon by attention to their own interest, or by a representation to them of the particular oppressions which it was conceived they might feel, or might fancy they felt, without considering whether those oppressions might not be the necessary consequence of all government, or simply faults in the administration of government—you will easily see, gentlemen, that when the minds of men were inflamed by any of these means, the consequence would be precisely the same; if people were irritated against the existing government of the country, they might be easily led to overthrow that government.

All these arts were used to obtain what, you will find, formed the great end, the grand plan, the common cause of England and of France, universal emancipation; a language to catch a great number of people who might not reflect, with any great correctness, upon the terms used, or the consequences which were to follow from them.

Gentlemen, I have stated to you what I conceive to be the extent of the conspiracy; but if it was in the view of the prisoner to prevail on the people to change any thing in the constitution of the government by their own authority, and he acted in pursuance of that view, I conceive he is equally guilty of the crime with which he is charged. He had that in view which he could not expect to control. The people, when excited, would act, not upon what he wished, but upon what they chose to wish; and perhaps the security of himself, and the security of others, who might be engaged with him; perhaps the security of others, totally disregarding him, might require their going to lengths which might not immediately be in his contemplation. It is therefore, gentlemen, that, by the law of England, when men form plans, the consequence of which may lead to the destruction of the government in any of its parts, the consequences of which (if the government is so destroyed in any of its parts) necessarily lead to the deposition of the king; at least to that extent the persons so engaged are conceived to have formed the design of compassing the death of the king, and therefore to be guilty of high treason, whatever their leaders may have originally intended; for they are engaged in that of which they cannot command the consequences, and in respect of which they therefore must be answerable for whatever, in the ordinary course and nature of things, may be the probable consequences; and this will be found to be absolutely necessary for the security of every state.

The means by which the persons, who were engaged in this conspiracy, were to accomplish their ends, were principally to be effected by that association which has effected the same thing in France; that association which we are now to hope may possibly be put an end to in that country, as it has been found that the existence of any government is totally incompatible with the existence of

such associated clubs and societies has have been formed in France, consisting of what is commonly called the Jacobin Club, and of the several associated and affiliated societies, to the amount, I think, of upwards of 40,000, which were dispersed all over that country. You will see that it was clearly and distinctly in the view of the prisoner, and those engaged with him, to establish the same sort of association of clubs, united in the strictest manner, and by the closest correspondence, throughout all the country; to disseminate those clubs from town to town, from village to village, as I think the expression is in some of the letters that will be produced to you, until the whole body of the people—that is, the whole body of those who should choose to enter into these clubs—should be so united, that they should move forward all at once; and this you will necessarily perceive, if not counteracted, must lead to the destruction of the government of any country. For, if in such a capital as this, a body of men is formed acting in concert and combination with other bodies of men dispersed through the whole country, whose number, whose names, are, in a great degree, unknown; their force can never be calculated, but they are a united body, acting in perfect order, acting as a corporation, as a state within the state itself, and having all the force and compactness of a state, and subject to no control whatever.

Gentlemen, I have stated to you that this was done in imitation of the Jacobin Club at Paris, and of its several associated societies. Perhaps in so stating I do injustice; for I know not whether, in fact, the French did not copy from this country. However, whichever was the original, you will find one set of societies hailing the other as brothers and fellow labourers in the same cause.

Gentlemen, the principal societies thus acting in this country were two; one called the Society for Constitutional Information, of which the prisoner at the bar has been long a member; the other called the London Corresponding Society, which was instituted early in the year 1792, and, as I think you will be convinced by the evidence, directly under the patronage of the prisoner at the bar. The principles of these societies you will find to be universally (as I think you will be convinced by the evidence) republican; their constitution was, in a great degree, not so. On the contrary, you will find that the constitution of these societies led to what may be termed the most aristocratic government that ever existed in any country. I will instance the London Corresponding Society. That society was divided into a number of what were called divisions; I think to the amount of about thirty; though these divisions were never complete, so that perhaps sixteen or eighteen were all the divisions that really ever assembled at one time. Each of these divisions was to choose a delegate; the delegate from each of these divisions, meeting the other delegates, formed what was termed the committee of delegates; the committee of delegates had another committee, to which sometimes the name of the committee of correspondence, and at another time the name of the secret committee, you will find, was attributed; the true name was that of the committee of correspondence. But you will find that, from the nature of the committee itself, it soon got the name of the secret committee, and that, in the end, it was so secret a committee, that it was not known to the rest of the society who were the members of it.

Gentlemen, you will see, therefore, that in truth this London Corresponding Society, which is represented as consisting, sometimes, I think, of 6,000 members, was governed by eighteen or twenty delegates, who were governed by a small committee of five or six; the consequence was, that in truth the five or six were the active men, and the others were merely to be used as the five or six chose to use them.

The Society for Constitutional Information had been formed many years ago, and therefore had been formed upon very different principles; upon the same principles on which common clubs and associations of the same kind are usually formed. It was a meeting in which gentlemen who entered into the club were upon an equality; but the respectable names of which it had been originally formed, by degrees fell of; and you will find that in the latter years, particularly in the course of the three last years, the prisoner at the bar, and a few other persons, have been the only constantly attending members. Gentlemen, you will find that this society likewise, in the end, framed a committee of correspondence, which tended to give their constitution something of the same nature as the constitution of the London Corresponding Society. But the society being small in number, and principally composed of persons of a different rank in life, the whole constitution of the London Corresponding Society was not compatible with the nature of the Society for Constitutional Information.

Gentlemen, these societies corresponded with a number of other societies throughout the kingdom; and you will have, in evidence before you, their correspondence with a society in Southwark, with a society at Manchester, with a society at Sheffield, with a society at Norwich, and, I believe, with some other societies; and when you advert to the correspondence between these several societies, and to the declarations of the several other societies, adopted as they were by the Society for Constitutional Information, to which they all looked up—and particularly they looked up to the prisoner at the bar, as the leader of that society—you will find that their principles led to the establishment of what was called Mr. Paine's Rights of Man, and consequently to the total destruction of

the British government. For, gentlemen, if you advert in any degree to what is laid down in Mr. Paine's books, you will find his assertions to be totally incompatible with the existence of the government as it now stands in this country. You will find it particularly asserted by Mr. Paine, that in whatever manner the separate parts of a constitution may be arranged, there is one general principle that distinguishes freedom from slavery; which is, that all hereditary government is, to the people, a species of slavery, and that a representative government is freedom; that monarchy would not have continued so many ages in the world, had it not been for the abuses it protects; that it is the master fraud which shelters all others; that the principles upon which constitutions are now formed (Mr. Paine adverting to the American constitution, and to that which is formed in France), reject all hereditary pretensions to government—reject all that catalogue of assumptions known by the name of prerogative; and he adds, that the oath called the civic oath, in France (I am now speaking of the first part of the Rights of Man, which was written before the final destruction of the French monarchy) to the nation, the law, and the king, is improper; that if an oath ought to be taken at all, it ought to be, as in America, to the nation only; and then he foretels, in clear and decisive terms, that monarchy will not continue in France; and the reason which he gives for this assertion, is a reason which unquestionably is in itself unanswerable, namely, that it was inconsistent with the principles upon which the government, then established in France, was founded. For he conceived that the principles upon which the Constituent Assembly of 1791 had formed the government, were what he calls the principles of the Rights of Man; and it is perfectly true that monarchy, or any hereditary establishment whatever, is perfectly inconsistent with those principles. He therefore foretold, in no equivocal terms, the approaching dissolution of the monarchy so constituted in France, and the establishment of a complete republic; a prediction which you know, gentlemen, has since been accomplished; and he, as well as Mr. Joel Barlow, you will find considered in their several works, that the persons who, in the Constituent Assembly of 1791, acceded to retaining the kingly office in the government which they framed, did so out of respect only to the prejudices of the people, because they conceived the people were not then ripe for the total destruction of monarchy; that they therefore established a government in which the kingly office nominally remained, but placed in such a situation, and placed together with powers formed on principles so totally opposite to those of an hereditary, monarchical government, that it was impossible both should stand together; and therefore they conceived the monarchy, as the weakest, must necessarily fall.

Gentlemen, you will find the prisoner at the bar approving of all these publications, and showing, in terms unequivocal, what were his opinions upon these subjects, or at least those opinions which he chose to manifest for the purpose of accomplishing his wishes with those whom he was endeavouring to excite to the destruction of the existing government. You will find him, in a letter which will be read to you, in answer to a letter from a person who assumed the appellation of the Editor of the Patriot (a paper which was printed at Sheffield), a letter which details, with a wonderful minuteness, all the arts that were to be used, and which I have described to you, for the destruction of the existing government in the opinion of the people—which speaks of the manner in which reason, imperial reason, was to act as the generallissimo, or commander in chief; but that art was to be second in command, for the purpose of inflaming the people, and exciting them against the government of the country. The answer to that letter, in which I understand the hand-writing of the prisoner at the bar will appear, concludes thus:—"Freedom, though an infant, makes Herculean efforts, and the vipers, Aristocracy and Monarchy, are panting and writhing under its grasp. May success, peace, and happiness attend those efforts." Efforts which you observe were to be made by freedom, compared to an infant Hercules strangling the vipers Aristocracy and Monarchy, representing aristocracy and monarchy as of that description of things which answered the term of vipers stinging the bosom in which they were nourished.

Gentlemen, you will find that when a society at Norwich applied itself to one of these societies for an explanation upon the subject of their intention, whether they meant to be content with the duke of Richmond's plan, or, as some of the societies seemed to propose, to rip up monarchy by the roots—the answer—an answer given after a great deal of deliberation—went in no degree to the point—but directing the Norwich Society, in all they should write and say upon the subject, to leave monarchy alone—to attend to that which they had been before directed to attend to—the insisting upon universal suffrage as a clear, distinct principle, and that every thing else would necessarily follow.

Gentlemen—The views of these societies will also perhaps not indistinctly appear from their transactions with a society avowedly framed for the purpose of a reform of parliament—a society of which you have probably heard under the description of the Friends of the People, avowing themselves to be advocates for a reform in parliament—that is—in the constitution of the House of Commons—but with a declared anxiety to preserve the principles of the constitution itself. You will find, gentlemen, that, in the course of the correspondence between the Society for Constitutional Information, of which the prisoner

at the bar is a member, and the Society of the Friends of the People, the Society of the Friends of the People found themselves compelled to decline, so early, I think, as May, 1792, all intercourse with this Society for Constitutional Information, because they conceived its members were going lengths far beyond the purpose to which the Society of the Friends of the People meant to confine themselves.

Gentlemen, this is not material, unquestionably, with respect to the view in which the Society of the Friends of the People saw the conduct of the other society.—You are not to charge a man with a criminal act because other people have conceived him guilty of it—but it is extremely important in this point of view—that when a body of the description of the Society of the Friends of the People entertained and avowed this jealousy of the Society for Constitutional Information, it became a man of the description of the prisoner at the bar, a man of considerable natural talents, and great acquirements, and who must therefore have seen the whole force of the answer sent by the Friends of the People to his society—it became the society completely to disavow that they had it in their remotest contemplation to do any thing which should injure the constituted government of the country, and to declare that their object was as limited and as confined as that of the Friends of the People, though perhaps they might differ with them as to the extent of the remedy to be applied. But, gentlemen, you will find that nothing of that sort was done. On the contrary, in the course of other correspondence with other societies, you will find the Constitutional Society afterwards endeavouring to persuade the Country Societies, that the Friends of the People were not honest—that they did not mean to do any thing—and that the object of that society was mere contrivance, to protect that which they pretended they meant to reform.

Gentlemen, the union of the society for Constitutional Information with the other societies, extended not only to correspondence, but to assuming a number of the members of different societies as associated members of their own.—You will find, that, of a society at Sheffield, which was a numerous and a particularly active society, and which seems to have been under the direction of some persons of considerable ability, they associated twelve members some time in March, 1792. You will find, in like manner, at another period, I think in July, 1792, they associated six of the London Corresponding Society—that the associated members of the Norwich Society, and of some other societies, for the purpose of uniting all these several societies, by means of those honorary members, with themselves.

You will also find them, during the course of the year 1792, not only repeatedly adopting Mr. Paine's works in terms of the strongest and most unqualified approbation—in terms applying clearly to those parts of his works which go most directly to the destruction of the British constitution, but supporting Mr. Paine in a prosecution instituted against him for publishing the second part of the Rights of Man, sustaining him throughout that prosecution, and consequently adopting, in the clearest and most explicit manner, those passages in the second part of the Rights of Man which were the objects of that prosecution, which were conceived to be so extremely offensive, and to lead to such dangerous consequences—avowedly adopting the principles of that work as principles which were to be supported, and explicitly declaring that the man who laid down those principles was an honour to the society to which he belonged (for he was an honorary member of this Constitutional Society) and a faithful servant of his country.

Gentlemen, you will find them likewise, as various seditious publications by Mr. Paine made their appearance, adopting those publications; and particularly his letter to the people of France after he was chosen a member of the National Convention, which, you will recollect, was after the utter destruction of monarchy in France by the deposition of the king in August, 1792.—You will find them explicitly adopting that letter, and ordering the printing of others of his publications, at their own expense, to an extent, in point of number, which strikes one when mentioned.—I think of Mr. Paine's letter to Mr. Dundas, they ordered 12,000 copies to be printed for the purpose of dispersion.

Gentlemen, you will find them in like manner adopting a letter of Mr. Joel Barlow to the people of France, with respect to the alterations which he conceived ought to be made in their constitution of 1791.—And I think, when you read the letter which Mr. Barlow sent to the society with the printed copy of that letter, and when you read the answer to his letter to the society, and see the nature of his address to the people of France, you will be astonished that any persons should hope to be esteemed friendly to the government of this country, who could approve, in such terms, such a letter as that of Mr. Barlow to the people of France. In his letter to the society, he expressly states, that he conceives his address to the people of France, to be important to the objects of the society: the object of the letter of Mr. Barlow to the people of France being, to tell them that all that they had of monarchy in their old constitution of 1791, was totally wrong, was founded upon wrong principles; and that the destruction of monarchy itself was essential to the true constitution of every government.

This letter he states to the society to be, as he conceived, a letter important to the object which they had in view.—It is impossible to conceive in what manner it could be important to the object which they had in view,

unless their object was, to make the same change in the government of this country which the new assembly in France was preparing to make in the constitution which had been established in 1791, by the utter abolition of monarchy.

Gentlemen, I before mentioned to you the address which the society presented to the Jacobin Club. That was even earlier; for that was in May, 1792; and you will find this paper expressed in terms which will make it impossible for you to doubt that the persons who thus addressed that Jacobin Club, did so with a full conviction that they truly addressed them when they hailed them, "Brothers and fellow-citizens of the world," and stated to them, that when they offered their congratulations on the glorious Revolution which the French nation had accomplished, they spoke a language which only sincerity dictated.

Gentlemen, this address will be read to you; and therefore I will not detail to you the different parts of it; but there is one part which I will observe upon; and I will more particularly observe upon it, on account of the consequences which may perhaps have followed from it. After stating, "It would have given an additional triumph to our congratulations, if the Rights of Man, which are the foundation of your Declaration of Rights, had been recognized by the governments around you, and tranquillity established in all,"—including necessarily in that description the British government, and therefore asserting their wish, that the equal Rights of Man, the foundation of the Declaration of Rights of the French, upon which the government of 1791, had been imperfectly constituted, should be established in all governments. They add—"We now behold you, a nation provoked into defence, *and we can see no mode of defence equal to that of establishing the general freedom of Europe. In this best of causes we wish you success. Our hearts go with you.*"

When they state that *they can see no mode of defence equal to that of establishing the general freedom of Europe*, I will beg you to recollect that the same idea is suggested in a work of Mr. Paine, "*that the revolution in France was to be accomplished only by establishing similar revolutions in all other countries in the world;*" and I will beg you also to recollect, that it was the general opinion of the French, that the preservation of their revolution was to be effected, according to the expression of one of their ablest deputies, *by setting the four corners of the world on fire.* You will then see the ground of that famous decree of the National Assembly of France, for establishing the general freedom of Europe, *as a system of defence;* and you will collect whether this address of the Society for Constitutional Information to the Jacobin Society at Paris, may not have been the foundation of, or at least an encouragement to, the whole of that violent proceeding.

Gentlemen, these societies were not contented with this address of the Constitutional Society to the Jacobin Society at Paris, in which the prisoner appears to have had a very particular hand.—Indeed you will find in a great deal of the evidence which will be produced to you, the hand-writing of the prisoner, which shows that he directed the whole of their proceedings, and you will find this upon occasions, and under circumstances that will astonish you.—The societies next proceeded to address the National Convention at Paris. Upon this subject a private correspondence took place between some members of the London Corresponding Society, and the prisoner at the bar. A gentleman of the name of Frost, who appears to have been a person who corresponded with Mr. Tooke, was then at Paris; and you will find that in his conception of things, without the affair of the 10th of August (which you will recollect was the total overthrow of monarchy in France) liberty was at an end. You will likewise find, that during the course of these transactions, the prisoner at the bar was in correspondence with Petion, the mayor of Paris; a correspondence which, in its language, showed that Petion considered himself and the prisoner as engaged in the same common cause. Their cause, as I conceive, could be no otherwise a common cause, than as they conceived, according to the declaration in the address to the Jacobins, "that the best defence for France was the establishing the general freedom of Europe."

Gentlemen, you will find, that in consequence of a private correspondence between the prisoner at the bar and one of the members of the London Corresponding Society, the proposition to address the National Convention of France, apparently originated with that society; but in truth it was a matter which had been previously settled between the prisoner and this member of the London Corresponding Society. The London Corresponding Society sent to the Society for Constitutional Information the address which they had prepared; and a committee of the Constitutional Society was appointed to confer with them upon the subject, of which committee the prisoner at the bar was one. This address the Constitutional Society did not think proper to adopt as their own; but they resolved that they highly approved of the spirit of it.

The address of which the Constitutional Society thus approved the spirit, is expressed in such terms, that I must detain you whilst I state some passages in it, because it seems to me, together with the address which was presented by the society for Constitutional Information, plainly to show the plan of these societies. After addressing the French Convention in strong terms of friendship, the address of the London Corresponding Society represents them fervently supplicating the Almighty Ruler of the universe to be favour-

able to the cause of the Convention, as intimately blended with their own; again asserting that the cause in which the French Convention was then engaged, was a cause intimately blended with that in which the societies in London were engaged. They proceed, "Frowned upon by an oppressive system of control, whose gradual but continued encroachments have deprived this nation of nearly all its boasted liberty, and brought us almost to that abject state of slavery from which you have so emerged." And here, gentlemen, is another instance of that misrepresentation which I before mentioned to you, artfully holding out to the people of this country, that they were reduced to a state of slavery so nearly resembling that in which France was before the revolution of 1789, that there was scarcely a difference between the two countries.

The address proceeds, "they conceive it to be the duty of Britons to countenance and assist, to the utmost of their power, the champions of human happiness, and to swear to a nation proceeding on the plan you have adopted, an inviolable friendship;"—that is, to swear inviolable friendship to a nation proceeding on a plan which had for its object the utter subversion of monarchy, and all hereditary distinctions in the government of their country, and of establishing in lieu of it, a perfect representative government, founded on the supposed principles of the Rights of Man. Then they proceed to state their own situation; that the stern, uplifted arm of authority kept back the timid; and add, "Men now ask each other what is freedom? What are our rights? Frenchmen you are already free, and Britons are preparing to become so." A clear and explicit declaration that they conceived the French were become free in consequence of the events of the 10th of August, by which monarchy was totally destroyed in France, and that Britons were preparing to become as free as the French were become by those events.—"Seeking our real enemies, we find them in our bosoms"—the vipers monarchy and aristocracy, which you recollect were mentioned in another paper—for they add, "We feel ourselves inwardly torn by, and ever the victims of a restless and all-consuming aristocracy, hitherto the bane of every nation under the sun! Wisely have you acted in expelling it from France!"

Gentlemen, what is this but a declaration that one branch of the legislature of this country, the House of Lords, was an all-consuming aristocracy, and that the French had acted wisely in expelling aristocracy from France? At the conclusion there is a passage which shows, beyond a possibility of doubt, that their object was the establishment in this country of a government, from which not only what they call aristocracy, but monarchy, should also be banished; for they add, "While you enjoy the envied glory of being the unaided defenders of freedom, we fondly anticipate in idea the numerous blessings mankind will enjoy; if you succeed as we ardently wish," that is, succeed in establishing that government which the Convention were then about to establish, and by which monarchy was to be totally annihilated, "if you succeed, as we ardently wish, the triple alliance (not of crowns, but) of the people of America, France, and Britain, will give freedom to Europe, and peace to the whole world."

Can declarations be more explicit than these, that their object was, that the power which should be competent in this country to make an alliance, should not be the king, by whom, according to the constitution of this country, all treaties with foreign states must be made, and with whom all dealings with foreign powers must, at least, nominally be had, and that there should be a triple alliance—not of crowns—expressly negativing the crown—but of the people of America, of France, and of Britain, to give freedom to Europe, and peace to the whole world? adopting again the idea developed in the address to the Jacobins of May preceding, that giving freedom to Europe was the best defence for that which was then transacting in France. They add, "How well purchased will be, though at the expense of much blood, the glorious, the unprecedented privilege of saying mankind is free! Tyrants and tyranny are no more! Peace reigns on the earth! And this is the work of Frenchmen."

Can language convey in stronger terms, the ideas of men bent on the destruction of every thing to which they could give the terms monarchy, aristocracy, or the crown in this country; of establishing that which they conceive to be universal freedom, and abolishing what they call tyrants and tyranny, so that peace might reign on the earth.

You will find, gentlemen, in the course of the evidence which will be laid before you, this repeatedly and artfully urged to catch men of enthusiastic dispositions, that if monarchy and aristocracy were abolished, an all governments were what they call "governments of the people," wars would be at an end, and universal peace would reign upon the earth. Thus you will find one paper opening another, the same principles developed throughout, and those principles aiming at the destruction of the government of this country, and at the establishment of a representative government.

Upon this address the Society for Constitutional Information resolved "that the thanks of this society be given to the London Corresponding Society for the above address, and that the secretary acquaint them this society do highly approve of the spirit of the same."

Having approved of the spirit of this address of the London Corresponding Society, they proceed to prepare a separate address of their own, conceived in language as strong as

that of the London Corresponding Society; so that I think you will be of opinion that they did not decline concurring in the address of the London Corresponding Society, because they thought it too strong, but because probably they thought that expressing the same things in other words, they should convey the same ideas still more diffusively throughout the country.

The address of the Society for Constitutional Information to the National Convention in France, begins thus—"Servants of a Sovereign People, and benefactors of mankind, we rejoice that your revolution has arrived at that point of perfection which will permit us to address you by this title. It is the only one that can accord with the character of true legislators." This is a clear declaration that an hereditary office of king, and an hereditary peerage, were, in their opinions, utterly inconsistent with the character of true legislators. It is consequently a declaration that they wished to establish a legislature founded upon the same principle as that on which the Convention in France proceeded; upon a principle wholly elective. They proceed—"Every successive epoch in your affairs has added something to the triumphs of liberty and *the glorious victory of the 10th of August*, has finally prepared the way for a constitution, which, we trust, you will establish on the basis of reason and nature."

They conceived, therefore, gentlemen, that the events of the 10th of August were a glorious victory, and that it prepared the way for the establishment of a constitution on the basis of reason and nature; a basis upon which every man must wish that every constitution should be founded, only that what is reason, and what is nature, what is that basis upon which a constitution ought to be founded, is that upon which many men are very likely to differ.

There are other passages in this address which clearly show the objects of the persons who presented it. They represent the condition of Englishmen, though not so bad as that of other countries, yet still as approaching to a state of slavery. They tender their warmest wishes for the full extent of the progress, and success of the cause in which the French Convention were engaged; and add, "It is indeed a sacred cause. We cherish it as the pledge of your happiness, our natural and nearest friends, and we rely upon it as the bond of fraternal union to the human race, in which union our own nation will surely be one of the first to concur." After stating the advantages to be derived from the proceedings of the assembly in France, they add, "Go on legislators, in the work of human happiness, the benefits will in part be ours, but the glory shall be all your own. It is the reward of your perseverance, it is the prize of virtue." And then considering that the sparks of liberty have been preserved in England, only so far as to show the darkness visible in the rest of Europe; they speak of the lustre of the American republic as like an effulgent morning, but still too distant to enlighten our hemisphere, till the splendor of the French Revolution burst forth upon the nation in the full fervour of the meridian sun; and displayed in the midst of the European world the practical result of principles which philosophy had sought in the shade of speculation; and which experience must every where confirm. The practical result of the principles thus applauded, you must consider as directly opposite to the principles upon which the material parts of the British constitution are founded, because they are principles utterly inconsistent with an hereditary monarchy, or an hereditary House of Lords.

The address concludes, "In this career of improvement, your example will be soon followed; for nations rising from their lethargy, will reclaim the Rights of Man with a voice which man cannot resist."

Gentlemen, I have enlarged upon these two addresses, because it appears to me that they develope with a clearness not to be questioned, the principles of these societies, and show that they were perfectly hostile to the constitution of this country: and because it seems to me impossible to conceive that men who framed and presented such addresses, could have in view simply a reform of the Commons House of parliament, upon any system of reform, meaning to go no farther.

Gentlemen, they were not misunderstood by the persons to whom their addresses were presented; nor indeed did the persons who presented the address of the Constitutional Society misunderstand its meaning. The persons chosen for this purpose were Mr. Joel Barlow and Mr. Frost.*

You will find that Mr. Joel Barlow, and Mr. Frost, at the time they presented this address, pronounced an introductory address from themselves, but afterwards communicated to the Constitutional Society, and perfectly approved by them.

In this introductory address they express themselves thus: "Citizens of France, we are deputed by the Patriotic Society in London, called the Society for Constitutional Information, to congratulate you in its name upon the triumphs of liberty, Before the epoch of your revolution, this society employed itself on this important object with little hopes of success." They then state, that innumerable societies of the same sort were forming in every part of England; that they excited a spirit of universal enquiry into the complicated abuses of government, and the simple means of reform; that after the example given by France, revolutions would become easy; that reason was about to make a rapid progress; and that it would not be extraordinary if in much less space than could be imagined, the

* See his trial for seditious words in this Collection, Vol. 22, p. 471.

French should send their congratulations to a National Convention in England.

This introductory address clearly points out the object of the addressers. It clearly points out, that they considered themselves as labouring to little purpose until the event of the French Revolution; that the event of that Revolution in its consequences led to all that they proposed; that they considered the means for obtaining that which they proposed as simple; that these means were to be taken from the example of France, which example would make revolutions easy. What was the example of France? They tell you in the concluding words—the establishment of a National Convention—and, therefore, they conceived that it would not be extraordinary if, in a much less space of time than could be imagined, the French should send their addresses of felicitation to a National Convention in England.

Gentlemen, you will find that this idea of a National Convention did not originate here, but in an address of the London Corresponding Society to the people, of the 6th of August, 1792. There the same idea is clearly advanced, that the people were to effect their own emancipation by means of that National Convention, from which alone they could hope to have it; by the people meeting in a convention, because they could not expect to receive that which they wished from the constituted authorities of government.

The president of the French National Assembly did not, in the least, hesitate to interpret this address of the Constitutional Society, and the proceedings upon it; for in his answer to it, he says, to the addressers, "Those who now defend our liberty will one day become the supporters of yours." Then he adds, "Generous Republicans,"—so that he clearly conceived that their address breathed the spirit of republicanism—he had not the least hesitation in applying to the persons who came to him with such an address that epithet. He says, "The shades of Pym, of Hampden, and of Sydney, are hovering over your heads; and the moment cannot be distant when the people of France will offer their congratulations to a National Convention in England." You perceive, therefore, that the president of the National, Convention of France, had not the least doubt of the meaning of the address which was made to him; or of the object of it; and that the consequences might probably be that which the addressers themselves had told him they probably might be, namely, the establishment in this country of the same sort of convention which was then established in France.

Gentlemen, I forbear to detail to you a vast variety of other papers, all tending to the same conclusion—Letters from the Societies in France—Letters from and to the Societies here—But there is one thing which I think I ought particularly to mention to you. On the 13th of January, 1793—certainly a very critical period—it was a time when, in the persuasion of men in general, a war between the two countries was likely to take place—the Constitutional Society thought proper to make three members of the French National Assembly, Mr. Saint André, Mr. Barrère, and Mr. Rowland, honorary members of their society, Saint André on the 13th of January, and Barrère and Rowland, on the 25th of January; describing them as the most judicious and enlightened friends of liberty. And on the 1st of February, they resolved, that the speeches of Barrère, and Saint André, in the French National Assembly, upon the subject of the trial of the king, should be entered on their books; and then they resolved, that this resolution should be printed in the public newspapers.

Undoubtedly this is not publishing directly those speeches; but it is publishing them indirectly, because it is calling the attention of all men to those speeches, and intimating that the Society for Constitutional Information, conceived the speeches contained matter worthy of attention. They referred the attention of the public to those speeches, as contained in the French papers. The consequence is obvious, that those who were likely to read the resolutions of this Society for Constitutional Information, would be naturally led to read these speeches. And the society could have no object in these resolutions but to adopt in some way or other these speeches.

These speeches will be given in evidence to you; and you will find that the right of the National Assembly to decide upon the fate of the king, is stated to arise from their being a Revolutionary Assembly, created by the nation in a state of insurrection; that the speeches proceed to investigate the subject—to consider the consequence which naturally must follow, from the rising of the people against the government of the country—to show that it must effect the destruction of that government, and, therefore, the destruction of the inviolability of the person of the king.

These principles afterwards, as you well know, were adopted by the French Convention, and acted upon in putting the king to death. One of these speeches describes, likewise, the difference between a convention, and an ordinary legislature, showing that a convention of the people assembled upon the extraordinary occasion, upon which this Convention in France was assembled, had necessarily absolute sovereign power to model and to form every thing, as in their discretion they should think proper, because they were to be considered in effect as the people themselves. And Mr. Barrère concludes, speaking of the Constituent Assembly which he observes had laid the first foundation for liberty, that *they were obliged to abide by what was then the prejudice of public opinion*; but that now all prejudices of that kind were destroyed; and he adds, "Nothing was wanting to im-

mortalize that assembly but to have delivered France from the calamity of kingly government, and to have relieved you from the duty of judging the last of your kings. With this example before your eyes you hesitate even in the first step of your duty. Am I then no longer in the midst of that National Convention, whose honourable mission it was to destroy kings and royalty?"

For what purpose could persons who meant to assert their loyalty to the government of this country, to the king, and to the establishment of the legislature in King, Lords, and Commons, offer to the attention of the world these speeches. Unless they meant to destroy that constituted government I am utterly at a loss to discover their purpose; and I believe that my friends will find it as difficult to discover.

The war soon followed—I think it was in the month of February, 1793, that the French declared war. This interrupted the intercourse between the two countries—but it was necessary to keep up the spirit of the persons who were to be engaged in that revolution, which the prisoner at the bar, with others was, I assert, engaged to effect. They contrived to excite a very general apprehension that a revolution, of some kind or other, would take place; and they proceeded to do that which had the effect of agitating the minds of the people, in a way perfectly safe for themselves—namely by petitions to parliament for a reform of the House of Commons.

But, gentlemen, you will find from the evidence, that these petitions were not presented with any hope of success, or with any intention that they should meet with success. They were considered merely as a measure of policy, and were so treated in several papers written by the Society for Constitutional Information; particularly in a letter to a society at Norwich. After stating their objections to the constitution of England as formed, and their wishes to alter it, they say—"Where then are we to look for our remedy? to that parliament of which we complain? to the executive power which is implicitly obeyed, if not anticipated in that parliament or to ourselves represented in some meeting of delegates, for the especial purpose of reform, which we suppose you understand by the term Convention?" alluding to a passage in a letter to them from the society, to which they were then writing, which stated, that the London Corresponding Society had stated to the different country societies three different propositions; a petition to parliament, a petition to the king, or a convention. And you will find a general concurrence of all these societies, in treating a petition to parliament, as likely to produce no end whatever; a petition to the king as perfectly futile; and that their only hope was in a convention. This letter of the Constitutional Society, speaking of a petition, says, "If the event is looked to in the vote which may be obtained from that body to whom the petition is to be addressed, which of us can look to it without the prospect of an absolute negative? In this point of view, therefore, it cannot require a moment's consideration; but, if we regard the policy of such a petition, it may, in our apprehension, be well worth considering, as a warning voice to our present legislators, and as a signal for imitation to the majority of the people." This letter is dated the 16th of April, 1793.

The petitions which were presented having been rejected, it then seems to have been determined to proceed immediately to means which they considered as more effectual. Early in the year 1793, there had been assembled a body of men in Scotland, under the description of "A General Assembly of Delegates of the Societies of the Friends of the People throughout Scotland, assembled for the purpose of Parliamentary Reform." You will observe, the title they took was, that of "Delegates from the Societies of the Friends of the People throughout Scotland." They had met early in 1793, and then had adjourned to November, 1793, without doing any thing. In May, 1793, a correspondence took place between the London Corresponding Society and the Secretary of this Convention of Delegates in Scotland, a Mr. Skirving,* in which, after stating that the petitions had been all of them unsuccessful, it was added, "Our attention must now therefore be turned to some more effectual means. From your society we would willingly learn them; and you, on your part, may depend on our adopting the firmest measures, provided they are constitutional; and we hope the country will not be behind hand with us."

Gentlemen, the answer of Mr. Skirving to this letter is dated the 25th of May, 1793; and it clearly shows, that that person had in view something which would probably end in the total annihilation of all existing government. Speaking of the situation of the two countries, he says: "If either you in England, or we in Scotland, should attempt separately the reform which we, I trust, seek to obtain, we should, by so doing, only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking." After observing upon what might be done if a change of men only was to be effected, the letter proceeds, "but to cut up deep and wide-rooted prejudices, to give effectual energy to the dictates of truth in favour of public virtue and national prosperity, in opposition to self, and all its interested habits, and to withstand and overawe the final efforts of the powers of darkness, is the work of the whole, and not of a part; a work to which mankind, till this awful period, were never adequate, because never till now disposed to fraternize, not merely, or only, I

* See his Trial for Sedition, in this Collection, Vol. 23, p. 391.

trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence."—"I think the minds of all must, in the nature of things, be now turned to more effectual means of reform." Then he proceeds to notice the difference in the formation of the societies in England and in Scotland, and adds, "I have not a higher wish, in the present exertions for reform, than to see the people universally and regularly associated, because I am persuaded, that the present disastrous engagements will issue in ruin, and the people then must provide for themselves; and it would be unhappy, when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue."

Gentlemen, without endeavouring to discuss what it was which the writer of this letter conceived was likely to produce the confusion to which he adverts, and upon which, unless means were taken to prevent it, anarchy must ensue, it is sufficient for me to say, that clearly, in the mind of this writer, something was expected to happen, from which anarchy was likely to ensue. This letter is written in a particular style, with respect to religious sentiments. "We will not need but to be prepared for the event to stand and see the salvation of the Lord. Let us, therefore, take the hint given us by our opposers; let us begin in earnest to make up our minds relative to the extent of reform, which we ought to seek; be prepared to justify it, and to controvert objections. Let us model the whole in the public mind. Let us provide every stake and stay of the tabernacle which we would erect, so that, when the tabernacles of oppression, in the palaces of ambition, are broken down, under the madness and folly of their supporters, we may then, without anarchy, and all dangerous delay, erect at once our tabernacle of righteousness"

Gentlemen, it seems to me that it is impossible to read this letter without perceiving that, in the contemplation of the mind of the writer a total dissolution of the government was likely to happen, and that it was necessary to have a new frame of government, for the purpose of supplying the place of that which should be dissolved at that instant, and of preventing that anarchy which, he thought, must otherwise ensue; but a following passage leaves this without a doubt, for he proceeds to observe, "How hurtful to the feelings of a reflecting mind, to look back to the wretched state in which the Roman monarchy, enfeebled and broken by its own corruption, left the nations which it had subjected, like sheep without a shepherd." He seems, in subsequent passages, to consider, that it was necessary to be very expeditious in that which he proposed to be done. "Do not, I entreat you, hesitate, thinking such a work premature as yet. But a month, and then it may be too late; a malignant party may be already formed, and only waiting for the halting of the present managers. It will then be too late to seek to subject to deliberation, after a party has dared the act of rebellion." There are other passages in this letter which it will be proper to consider; but, I will detain you no longer than to observe, that it must have been clearly in the contemplation of the writer, that a dissolution of all government might possibly soon take place.

Gentlemen, you will find that afterwards, by means of a private correspondence between Mr. Skirving, and some of the members of the London Corresponding Society, it was contrived, that an application should be made to the London societies, and other English societies, to send delegates to this convention in Scotland, and that accordingly it was resolved to send delegates. You will find that the London Corresponding Society, sent as delegates, Mr. Margarot* and Mr. Gerrald,† and that the society for Constitutional Information sent a Mr. Sinclair,‡ and likewise elected for the purpose a Mr. Yorke;§ but Mr. Yorke did not go, being prevented, I think, by illness, or by some other means. You will find that these persons, meeting at Edinburgh, in November, 1793, proceeded to act in a manner, which, I think, I do not state to you too strongly, when I assert, that, if they had been permitted to proceed as they had begun, civil commotions must necessarily have followed.

Having originally met in May, 1793, and again, in consequence of their adjournment, in November, under the description of the "General Convention of Delegates from the Societies of the Friends of the People throughout Scotland," they thought fit, upon the 22d of November, which I think was the third day of that meeting, to assume the title of "The British Convention of Delegates of the People, associated for obtaining Universal Suffrage and Annual Parliaments," dropping their original character of delegates from the societies of the Friends of the People, and assuming to themselves a new character, that of "Delegates of the People," meaning therefore to arrogate to themselves the character of an assembly which was to be supported by the weight, and by the authority of the people at large. For there could be no purpose whatever for which they could assume this title of "Delegates of the People," unless they meant to assume the character incident to "Delegates of the People;" that is persons immediately delegated by the people themselves, otherwise than the constituted government of the country authorizes;

* See his Trial for Sedition, in this Collection, Vol. 23, p. 603.

† See his Trial for Sedition, Vol. 23, p. 803.

‡ See the proceedings against him, Vol. 23, p. 777.

§ See his Trial, A. D. 1795, in this Collection.

and therefore, for the purpose of doing something which might be deemed the act of the people, and to be supported by the authority of the people.

Gentlemen, if they had in view simply the obtaining a reform in parliament, by application to parliament itself, this assumption of title was not only unnecessary, but it was utterly improper, because, if they were to petition parliament they ought to petition parliament in their true character; that is, as delegates from the societies of the Friends of the People, by whom they were severally sent; otherwise they would not state to parliament their real character, that in which alone they would have had a right to have weight in the opinion of parliament. Assuming to themselves the title of "Delegates of the People," a title which they could not with truth assume, they assumed something upon which they meant to bottom something farther; and there is nothing which they could mean by it, but to assume to themselves the character of being the representatives of the people, and therefore being superior to the constituted government. If we advert to what passed in France, we shall feel a strong resemblance, in this proceeding, to a similar assumption of character, and consequently of power, in that country; and it will teach us what the consequences of such an assumption are. You all know, that the assembly which met in France, in the year 1789, was originally the states-general of the kingdom, convened by the king. But a part of them being assembled, to the amount of about half, I think, of their whole number, assumed to themselves the appellation of "Delegates of the People." Instead of delegates of the different states, as they were originally constituted, they assumed to themselves the title of "Delegates of the People," as one general mass; and, having done so, they formed a resolution which necessarily followed from that assumption, namely, *that the King could put no negative upon their proceedings*. The last assumption was just, if they were really the delegates of the people; because such a delegation was necessarily a supercession of all government, the people taking the affairs of the country into their own hands. They justly assumed, that the king could put no negative on their proceedings, if they were entitled to assume the character of delegates of the people: but they first assumed the character of delegates of the people; and then they assumed, that being delegates of the people, the king had no right to put a negative upon any of their proceedings. That passed in France, and this proceeding in Scotland, is a complete copy. A number of persons, assembled originally under the title of, and being, in fact, delegates simply from the societies of the Friends of the People, as they were called, assumed to themselves the character of delegates of the people. They could do so only for the same purpose for which the assembly in France did it; namely, for the purpose of assuming to themselves all the authority, all the power, and all the consequence, which belonged to persons of that description.

Gentlemen, this was clearly and distinctly calling upon the people to support them; it was giving them a title to say, "We are your delegates, support us in what we are doing."—Having done this, they proceeded to a variety of resolutions, all of which, I think, you will see, clearly tended directly to the same purpose. I will not observe upon any of them, except two; one is, that, upon a petition to parliament being proposed, it was negatived by the order of the day; another, that a resolution was, on the 28th of November, 1793, come to, with a considerable degree of solemnity, for which a blank was left in the minutes, and which resolution was not to be entered upon the minutes until the close of their sittings. That resolution appears to me to be of such a description, that I ought to take some notice of it to you, even in this opening.

"Resolved, that the following declaration and resolution be inserted at the end of our minutes"—(and, I should observe, that this was moved by the delegate from the Society for Constitutional Information). "This convention considering the calamitous consequences of any act of the legislature which may tend to deprive the whole, or any part of the people, of their undoubted right to meet, either by themselves or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive of our known and acknowledged constitutional liberties, do hereby declare, before God, and the world, that we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country, and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people and annual election, until compelled to desist by superior force."

Gentlemen, you will find that in the conclusion they carried this resolution into effect, the chairman refusing to quit the chair until compelled to do so by superior force. Let us suppose that the power sent for the purpose of dispersing this meeting had been unequal to the purpose, that it had been of inferior force—the result would have been, that this convention of the delegates of the people at Edinburgh would have become instantly a permanent assembly; and you will find, by a letter of one of the persons who was a member of this convention, that he considered this resolution as equivalent to a declaration of permanency.

They proceed—"We do resolve, That the first notice given for the introduction of a Convention Bill, or any bill of a similar ten-

dency to that passed in Ireland in the last session of their parliament; or any bill for the suspension of the Habeas Corpus Act, or the act for preventing wrongous imprisonment, and against undue delays in trials in North Britain; *or in case of an invasion*; or the admission of any foreign troops whatsoever into Great Britain or Ireland: all, or any one of these calamitous circumstances, shall be a signal to the several delegates to repair to such place as the *Secret Committee* of this convention shall appoint: and the first seven members shall have power to declare the sittings permanent, and twenty-one shall constitute a convention, and proceed to business."

Gentlemen, here were resolutions which they did not choose to enter at the time upon their minutes—here was a contrivance for establishing a *secret* place for the meeting of this convention upon several emergencies, some of which were—the introduction of a convention bill into the House of Commons—not the actual passing, but the mere introduction of it into the House, to prevent their meeting—or any bill of a similar tendency—or any bill for the suspension of the Habeas Corpus Act—or in *case of an invasion*—or the admission of any foreign troops whatsoever into Great Britain or Ireland.

For what purpose can this resolution have been entered into, but for providing a more effectual resistance to government, by holding their assembly in some other place, which they might afterwards appoint, and which they might think more adapted to that resistance than the city of Edinburgh? The manner in which all this was to be done is curious—The place where the meeting was to be held was to be kept a perfect *secret*; it was not to be known to any person except a *Secret Committee* of three, with the secretary, who were to be appointed to determine the place where such convention of emergency should meet. They resolved, "That such place shall remain a secret with them and with the secretary of this convention; and that each delegate shall, at the breaking up of the present session, be entrusted with a sealed letter containing the name of the place of meeting; that this letter shall be delivered unopened to his constituents, the receipt of which shall be acknowledged by a letter to the secretary—preserved in the same state until the period shall arrive at which it shall be deemed necessary for the delegate to set off;" so that until that moment it was not to be disclosed, even to the delegates themselves, where this convention was, in this case of emergency, to meet.

Then they proceed to resolve, "That the moment of any illegal dispersion of the present convention, shall be considered as a summons to the delegates, to repair to the place of meeting appointed for the convention of emergency by the secret committee, and that the secret committee be instructed to proceed without delay to fix the place of meeting."

Gentlemen, what must have been the consequences, if the opinion of the people, or of any number of the people, had followed this British convention, as it termed itself, of delegates of the people—had acknowledged its members in that character; that being the delegates of the people they were to be supported by the people, and had attempted to support them accordingly?—What consequences could have followed but a civil war?

Gentlemen, you all know that this convention was dispersed by the authority of the civil magistrates. Being dispersed, you know that prosecutions took place, which became the subject of a considerable degree of clamour. The Society for Constitutional Information, in a variety of resolutions, approved and adopted all that had been done in this convention at Edinburgh; and on the 17th of January, 1794, they came to resolutions of the strongest tendency.

"Resolved, That law ceases to be an object of obedience whenever it becomes an instrument of oppression."

"Resolved, That we call to mind with the deepest satisfaction the merited fate of the infamous Jefferies, once lord chief justice of England; who, at the era of the glorious Revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people."

"Resolved, That those who imitate his example deserve his fate."

This immediately following the transactions in Scotland, and the proceedings there of which they complain, I can give it no construction but that of a direct incitement to the people of Scotland to exercise, against the persons who presided in the courts of justice there, that sort of summary justice by the people themselves which is here stated to have been the fate of the infamous Jefferies.—They proceed.

"Resolved, That the Tweed, though it may divide countries, ought not, and does not make a separation between those principles of common security, in which Englishmen and Scotchmen are equally interested; that injustice in Scotland is injustice in England; and that the safety of Englishmen is endangered whenever their brethren of Scotland, for a conduct which entitles them to the approbation of all wise, and the support of all brave men, are sentenced to Botany Bay, a punishment hitherto inflicted only on felons."

You see, gentlemen, they do not merely quarrel with the severity of the sentence, but they assert that the conduct of the persons against whom these sentences were past, was not only not criminal in the high degree that could merit such a sentence, but that it was not criminal at all; on the contrary, that it was highly meritorious, and was such as entitled them to the approbation of all *wise*, and the support of all *brave* men. Upon resolutions *drawn under the direction of a man of the description of the prisoner at the bar*,

one may be permitted to advert even to particular words; and the epithets of "*wise*" and "*brave*" are placed, the *one* to "*approbation*" and the *other* to "*support*." One may easily conceive to what they lead, and to what they may be expected to lead.

Mr. *Tooke*.—Am I to understand the solicitor-general to pledge himself to prove all that he states? Shall I be justified in understanding that? and that if he fails in proving it, it takes off all the force of that which he states?

Lord Chief Justice *Eyre*.—Failing in the proof takes off, certainly, as far as that goes, the whole of it.

Mr. *Solicitor General*.—I state this, your lordship sees, to be a resolution of the Society for Constitutional Information, and am merely making observations upon it.

Mr. *Tooke*.—I understood the solicitor-general to state that these resolutions were drawn up under the prisoner's directions. I mention it now that he should not hereafter say I mistook him: if the solicitor-general withdraws that, I have done.

Mr. *Solicitor General*. — At the meeting when these resolutions were come to, Mr. Tooke, appears by the books to have been *in the chair*; whether he actually drew up the resolutions is another question; but *he was in the chair*. I meant merely to say, that Mr. Tooke is a man who understands (unquestionably infinitely better than I can profess to do) the critical meaning of words, and their application in the clearest and plainest sense.

Gentlemen, they proceed — "Resolved, That we see with regret, but we see without fear, that the period is fast approaching when the liberties of Britons must depend not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised."

"Resolved, That we approve of the conduct of the British Convention; who, though assailed by force, have not been answered by argument; and who, unlike the members of a certain assembly, have no interest distinct from the common body of the people."

Gentlemen, on these two resolutions I must beg leave to make this observation, because it appears to me to belong to them.—The last is a complete approbation of the conduct of the British Convention; it describes them in the very character which they assumed—that of delegates of the people. From the former resolution, it is clear, that the attention of the people was intended to be drawn to the probability of a time approaching when the liberties of Britons must depend not upon reason, to which they had long appealed, nor upon their power of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it was exercised; calling tyranny those proceedings which had been had in Scotland in dispersing that assembly; attributing that dispersion to force; and clearly declaring an intention to oppose force by force;—this is the interpretation which I put upon these resolutions. Whether you will put the same interpretation upon them or not is for you to determine.

Gentlemen, these resolutions having been entered into by the Society for Constitutional Information on the 17th of January, on the 20th of January there was a meeting of the Society called the London Corresponding Society at the Globe Tavern. The proceedings of that meeting at the Globe Tavern are such as make it necessary for me to call your particular attention to them.

"At a general meeting of the London Corresponding Society, held at the Globe Tavern in the Strand, on Monday, the 20th day of January, 1794, citizen John Martin in the chair, the following address to the people of Great Britain and Ireland was read and agreed to." Then there follows an address to the people of Great Britain and Ireland; it proceeds to state—"If we look to Ireland we find that the acknowledged privilege of the people, to meet for the support and protection of their rights and liberties, is attempted by terror to be taken away by a late infamous act of parliament.—In Scotland, the wicked hand of power has been impudently exerted without even the wretched formality of an act of parliament; magistrates have forcibly intruded into the peaceful and lawful meetings of free men, and by force, not only without law but against law, have, under colour of magisterial office, interrupted their deliberations, and prevented their association."

"The wisdom and good conduct of the British Convention at Edinburgh has been such as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized, and made use of as evidence against them; and many virtuous and meritorious individuals have been as cruelly as unjustly, for their virtuous actions, disgraced and destroyed by infamous and illegal sentences of transportation.'

"Citizens, we all approve the sentiments, and are daily repeating the words, for which these our respectable and valuable brethren are thus unjustly and inhumanly suffering. We too associate, in order to obtain a fair, free, and full representation of the people, in a house of real national representatives. Are we also willing to be treated as felons for claiming this our inherent right, which we are determined never to forego but with our lives, and which none but thieves and traitors can wish to withhold from us?" Then they proceed—"If we had not just cause to apprehend the same inhuman treatment—if, instead of the most imminent danger, we were in perfect safety from it, should we not

disdain to enjoy any liberty or privilege whatever in which our honest Irish and Scotch brethren did not equally and as fully participate with us! Their cause, then, and ours, is the same; and it is both our duty and our interest to stand or fall together. The Irish parliament and the Scotch judges, actuated by the same English influence, have brought us directly to the point. There is no farther step beyond that which they have taken. *We are at issue.* We must now choose at once either liberty or slavery, for ourselves and our posterity. Will you wait till barracks are erected in every village, and till subsidized Hessians and Hanoverians are upon us?"

Gentlemen, what is this?—Is it not a declaration that the government of the country, and these societies assuming to themselves the character of the people, *were at issue*—that there was no farther step beyond that which had been taken by the government—that the people, therefore, must now choose at once either liberty or slavery, for themselves and their posterity. I can consider this no otherwise than as an actual *declaration of war against the constituted power—an appeal to the sword—rank rebellion.*

Gentlemen, they proceed to show that it was their intention to act by their *own force;* for they say—"You may ask, perhaps, by what means shall we seek redress?"

"We answer, that men in a state of civilized society are bound to seek redress of their grievances from the laws, as long as any redress can be obtained by the laws. But our common master, whom we serve (whose law is a law of liberty, and whose service is perfect freedom), has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors."

Who is it they style their plunderers, enemies, and oppressors?—The constituted government, and the constituted legislature of the country. They say they are not to expect redress from the laws to be made by that legislature, and to be administered by that government, but that they must have redress from *their own laws,*—that is, by their own force. If they could not (and you know they could not) make laws according to the constitution of the government of this country, they must have intended to form a new power equal to making laws; they must have intended to assume the character of the people, taking into their own hands the government of the country, and acting by force, and according to the spirit of such a delegation. If you can give a different interpretation to these words—If the learned gentlemen who are of counsel for the prisoner, or the prisoner himself, not inferior to any man, perhaps, for such a purpose—if they can give any other interpretation, you will give him the benefit of it: I can give no other. It seems to me clearly to be a declaration that they would seek redress—not from the legislature of the country administering the laws of that legislature, but that they would seek redress from their own laws—laws which they could not frame, but by assuming to themselves legislative power; and laws which they could not execute but by assuming to themselves the executive government of the country; so far, at least, as should be sufficient to execute these laws—which must have been by force.

Gentlemen, they proceed then to state the manner in which they were to make these laws, and to execute them—"There is no redress for a nation circumstanced as we are, but in a fair, free, and full representation of the people." Then they declare, they were determined to obtain that fair, free, and full representation of the people which should give them their redress; and how?—"Resolved That during the ensuing session of parliament the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament, and of the administration of the government of this country;" and here they take up what was done in the British Convention—"and that upon the first introduction of any bill or motion inimical to the liberties of the people, such as, for landing foreign troops in Great Britain or Ireland; for suspending the Habeas Corpus act; for proclaiming martial law; or for preventing the people from meeting in societies, for constitutional information; or any other innovation of a similar nature," which may include any thing—"that on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith to call a general convention of the people, to be held at such a place and in such a manner as shall be specified in the summons for the purpose of taking such measures into their consideration."

Now, gentlemen, the connexion between this and the British Convention is clear.—Here is the adoption of the very resolutions which the British Convention had come to; and clear and plain it is, that the persons who penned these resolutions meant to carry into execution that which they proposed—meant to support that convention which they wished to assemble by their own force (for by no other means could they make those laws which they proposed to make for their redress); declaring, that they could not expect redress from the laws of their plunderers, enemies, and oppressors, the constituted government of the country.

Gentlemen, there were several resolutions come to by this society on the 23d of January, and which were published together with those resolutions of the 20th of January—I ask pardon for describing them as resolutions—they are toasts which were drank at the anniversary dinner on the 20th, but they were published together with the resolutions I have

stated, by an order of the committee on the 23d of January. They were toasts given at the anniversary meeting of the society on that very 20th of January, when these resolutions were come to:

"The Rights of Man, and may Britons never want spirit to assert them."

"The British Convention lately held at Edinburgh, and success to the important object it had in view."

"Citizen William Skirving, charged by the sentence of the Court of Justiciary with the honour of being the cause of calling that convention."

"The London Corresponding Society, and other patriotic societies of Great Britain and Ireland." Then there are several others of the different deputies and societies.

"Success to the arms of Freedom against whomsoever directed, and confusion to Despots, with whomsoever allied."

"All that is good in every constitution, and may we never be superstitious enough to reverence in any that which is *good for nothing*," What it was that was "*good for nothing*," I think a part of the evidence, which will be produced to you, will very clearly show.

"Citizen Thomas Paine; may his virtue rise superior to calumny and suspicion, and his name still be dear to Britons."

There are others which I shall not trouble you with.

On the 24th of January, 1794, the Society for Constitutional Information came to this resolution: "A motion was made that it be resolved that the most excellent address of the London Corresponding Society be inserted in the books of this Society;" and then there is this resolution; "That the London Corresponding Society have deserved well of their country. Resolved, that the secretary be ordered to cause forty thousand copies of the address, the speech, and these resolutions, to be printed on one sheet, and properly distributed in England, Scotland, and Ireland." "Resolved, that these resolutions be published in the newspapers." With respect to these resolutions I understand that a considerable part is in the hand-writing of the prisoner at the bar, and which, I believe, will not be disputed.

Gentlemen, these proceedings necessarily led to that which followed. You see that the proceedings of the 17th of January, the 20th of January, and the 24th of January, were clearly intended to lead to the assembling, at a time when it should be thought expedient, another British Convention. On the 28th of March the Society for Constitutional Information received a letter from the London Corresponding Society, dated the 27th of March; it was a letter written by the secretary of one society to the secretary of the other. "Citizen, I am directed, by the London Corresponding Society, to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require. The London Corresponding Society conceives that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom; whether the late illegal and unheard of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished on our parts as the treachery of others, in the same glorious cause, is notorious. The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people. Whether they concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labour, and which can only be effectually removed by a full and fair representation of the people of Great Britain. The London Corresponding Society cannot but remind their friends that the present crisis demands all the prudence, unanimity, and vigour that ever was or can be exerted by men and Britons; nor do they doubt but that manly firmness and consistency will finally, and, they believe, shortly terminate in the full accomplishment of all their wishes." Then follow the resolutions:

"Resolved unanimously, first, That dear as justice and liberty are to Britons, yet the value of them is comparatively small, without a dependence on their permanency, and there can be no security for the continuance of any right but in equal laws."

"Second, That equal laws can never be expected but by a full and fair representation of the people: to obtain which, in the way pointed out by the constitution, has been, and is, the sole object of this society; for this we are ready to hazard every thing, and never, but with our lives, will we relinquish an object which involves the happiness, or even the political existence of ourselves and posterity."

"Third, That it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have been wrested from us, and of which scarcely a vestige remains, there ought to be immediately a Convention of the People by delegates, deputed for that purpose from the different societies of the Friends of Freedom, assembled in the various parts of the nation; and we pledge ourselves to the public to pursue every legal method speedily to accomplish so desirable a purpose."

Gentlemen, you will observe that this letter and these resolutions are amply larded with the words *legal and constitutional*. The

insertion of these words will not make those things legal and constitutional which are not so. If you see that the direct tendency of all these proceedings was, to call a convention of the people, who were—I will use the words of the resolution which I have stated to you—"to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have been wrested from us, and of which scarcely a vestige remains;"—Gentlemen, was not the avowed purpose for which this Convention of the People was to be assembled, to alter the whole frame and system of things? under the pretence of securing themselves from future illegal prosecutions, under pretence of preventing a repetition of wicked and unjust sentences, and under pretence of recalling wise and wholesome laws, which, they asserted, had been wrested from them, and of which, they said, scarcely a vestige remained.

To the letter is added, "I have to inform you, that a General Meeting of the Society will be holden on Monday, the 14th of April, the place to be announced by public advertisement." This, which is a sort of postscript, is material, because you will find that meeting on Monday, the 14th of April, which was a meeting of the Corresponding Society, at a place called Chalk Farm, not an unimportant part of the proceedings of these societies.

Upon these resolutions the Society for Constitutional Information resolved—"That it is fit and proper, and the duty of this society, to send an answer to the London Corresponding Society."

"Ordered, That the secretary acquaint the London Corresponding Society, that we have received their communication, and *heartily concur with them in the objects they have in view*; and that for the purpose of a more speedy and effectual co-operation, we invite them to send to this society, next Friday evening, a delegation of some of their members."

In consequence of this, a delegation did take place; and, on the 4th of April, at the meeting of the society for Constitutional Information, the prisoner at the bar appearing to be present, as he was also at the meeting on the 28th of March, there was read a letter from the committee of the London Corresponding Society, acquainting the society for Constitutional Information, that they had deputed persons of the names of Moore, Thelwall, Hodgson, Lovett, and Baxter, to hold a conference with the members of the society for Constitutional Information. Accordingly these five persons attended, and it was resolved, "That a delegation of five members of the Constitutional Society, should be appointed to meet the members deputed by the London Corresponding Society." The persons appointed were of the names of Sharpe, Joyce, Wardle, Holcroft, and Kydd; and the society resolved, "That these persons be a deputation to confer with the deputies of the London Corresponding Society." The society then left the room, and the conference began between the deputies of the two societies. The Constitutional Society also came to a resolution that there should be appointed a committee of correspondence of the members of the society. This committee of correspondence I adverted to in an early part of my address to you, as an instance of some of the members of the Society for Constitutional Information, aiming at the same sort of management of their society, by a small committee, as had taken place in the other societies. The persons who composed the Committee of Correspondence were Mr. Joyce, Mr. Bonney, Mr. Sharpe, Mr. Pearson, Mr. Tooke, and Mr. Wardle.

The delegates from the two societies, who were to confer upon the subject of the proposed convention, having come to resolutions upon the subject, on the 11th of April, 1794, Mr. Joyce made a report, the prisoner being present. The entry in the book is—"Mr. Joyce made the report of the meeting of the delegates of the London Corresponding Society, for the purpose of this society co-operating with the London Corresponding Society, and that they had come to the following resolutions:

"First, Resolved, That it appears to this committee very desirable that *a General Meeting, or Convention* of the Friends of Liberty should be called for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people."

"Second, Resolved, That it is recommended to the society for Constitutional Information, and the London Corresponding Society, to institute a regular and pressing correspondence with all those parts of the country where such measures may be likely to be promoted, not only to instigate the societies already formed, but to endeavour also to produce such other associations as may farther the general object."

"Resolved, That it appears to this committee that the general object will be much promoted if a standing committee of co-operation, between the two societies, were established for the purpose of holding personal communication with such members of similar societies in other parts of the country, as may occasionally be in London, and who may be authorized by the respective societies to act with such committees."

Then they read a letter from the secretary of the London Corresponding Society, dated the 10th of April, 1794, stating, that he was ordered by the committee of delegates of the London Corresponding Society, to inform the Society for Constitutional Information, that they approved the resolutions of the Committee of Conference; therefore the London

Corresponding Society have chosen five persons (whom they name) to put in practice immediately the second and third resolutions of the committee."

Then it was resolved, "That the report of the Committee of Delegates from the London Corresponding Society, and of this society, be entered on the books of this society."

"Resolved, That it appears to this society very desirable that a *General Meeting* of the Friends of Liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people."

"Resolved, That it appears to this society that the general object will be much promoted if a standing committee of co-operation were established;" repeating the resolutions of the committee, with this variation that you observe in the report of the committee—"It is resolved, that it appears to the committee, that a general meeting (or convention) of the friends of liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people." Upon this, I understand, there was a sort of debate about the use of the word convention; and it was supposed that the word convention was a term which had in itself something offensive, and therefore the term convention was omitted, and the word meeting only remained. The difference between "meeting" and "convention" will be very difficult to discover.

Then there was a resolution, "That the committee of correspondence already appointed by this society, be the committee for co-operation and communication with the committees of other societies.

"Ordered, That the secretary be desired to send a letter to the London Corresponding Society, acquainting them with the members of this society appointed to confer with them.

"Resolved, That Mr. Joyce be requested to accept of the office of secretary to the committee of correspondence. Mr. Joyce being present, accepted of the said office."

On the 2d of May there was a sort of anniversary dinner of the Society for Constitutional Information, at the Crown and Anchor tavern, when some toasts were drank, which will be stated to you, and which appear to follow the same sort of principles which had been repeatedly adopted by this society; and strong as they appear to be, they seem very little stronger than those before adopted. "The Rights of Man." "The Armies contending for Liberty," and several others. When they shall be read to you, you will see what they are, and what effect they ought to have.

Gentlemen, there had taken place, in the mean time, the meeting on the 14th of April, of the Corresponding Society, at Chalk Farm. The proceedings at that meeting have the same tendency. You will, when they shall be read to you, see what effect you ought to give to them. There is one thing, however, which I will mention—(I am sorry to detain you so long, and therefore I rather run over the latter part of the case, because, I think, I have stated enough to enable you to form a general comprehensive view of the whole)—It is a letter from the London Corresponding Society to the Society of the Friends of the People, from which it is manifest, that the Friends of the People held themselves aloof from these societies, and therefore the conduct of the Friends of the People distinctly called upon these societies to explain and avow their principles, if their principles were not those which might be deemed dangerous to the constitution of the country.

Upon the 12th of May the secretaries to the two societies were apprehended; and upon the 16th, I think, the prisoner at the bar was also apprehended. There had been, in the mean time, a sort of circular letter, written by the secretary of the London Corresponding Society, for the purpose of inviting the different country societies to send delegates to the proposed convention; and it appears that the committee of co-operation and correspondence was sitting, I think, at a place in Beaufort Buildings, in the Strand, where Mr. Thelwall, who was one of the members of the Corresponding Society, and an associated member of the Constitutional Society, gave lectures. The committee of co-operation was sitting, for the purpose of carrying into execution the plan which had been formed; and at that moment it was that the arrest of the several persons, who have been taken into custody, took place.

Gentlemen, I would call to your recollection what must have been the probable consequences if the convention, proposed to have been assembled by these persons, had actually assembled. The resolutions of the 17th of January, the 20th of January, and the 24th of January, appear to me clearly and decisively to prove that the object which they had in view, in calling a convention of the people was, to carry into execution, by means of that convention, the several objects which they detail in their several addresses; and when you recollect the terms of those addresses, you must also recollect that they are expressed in such terms as might lead to any thing; and that in no degree whatever do they distinctly lead to a simple reform in the constitution of the House of Commons. But if they had for their object a simple reform in the constitution of the House of Commons, to be effected by means of such a convention, acting by its own laws, and not by the laws of the constituted legislature, their proceeding to assemble such a convention, would be equally the crime of high treason—because the convention must necessarily deprive the constituted legislature of its powers before they could act in that capacity; and must substitute themselves (at least for the particular purpose) in the place of that constituted legislature. When these

men resolved, therefore, to expect redress only from their own laws, and not from the laws of their enemies, plunderers, and oppressors, they declared that their object was, to take the remedy into their own hands, and to act upon that principle.

Gentlemen, what can be said in answer to this case, if proved? and I have reason to think, from experience, that the principal facts which I have stated cannot be controverted by evidence, or explained away by argument. Because I am sure if either could have been done, or if both could have been done, that either one or both would have been done on a former occasion. I, therefore, am firmly persuaded that the facts of the case cannot be controverted, and that those facts, remaining uncontroverted, cannot be explained away.

Gentlemen, it may be said that the prisoner at the bar, whatever might be the views of others, or whatever might be the motive of others, was himself of a different description. But it is impossible that a man of his abilities, and of his character, should represent himself as a man deceived or deluded. He may assert that his principles were totally adverse to those of persons who might wish for a new order of things, except so far as a reform in the Commons House of Parliament (preserving every other part of the constitution) might be his object; and that he had no conception of obtaining that object by any other means, than the lawfully constituted legislature. It will, perhaps, be asserted that he has upon various occasions expressed himself as a man attached to the constitution of his country; attached to the hereditary monarchy, and to the House of Lords; that he has always professed to approve of both.

Even supposing, gentlemen, that, in fact, his opinions did not go with those persons who meant the destruction of the constitution; and that he had that attachment, which it may be pretended he had—do we not know that persons who have had opinions adverse to the measures that they have pursued, have still pursued those measures? What was the case of the Protestant Lords, and others in the rebellions in 1715 and 1745; and, indeed, of some in the reign of king William, whose object was, to restore the Pretender, which would in all probability, in the end—though they perhaps flattered themselves to the contrary, have re-established popery in this country if it had been effected? Were they less guilty of treason, because their wishes were, perhaps, for the preservation of the constitution, and of the religion of the country, whilst they endeavoured, from other motives, to put a different prince upon the throne.

However, we know men frequently profess that which they do not mean—a man may have monarchy on his lips, when his heart is far from it. Lord Lovat,* for instance, was perpetually protesting his loyalty, whilst he was engaged for a course of years in deep schemes to overturn that government to which he professed and avowed such loyalty. The language of the French Convention in 1791, is noticed by Mr. Paine, by Mr. Barlow, and others of their eulogists, whose works are admired by the prisoner at the bar. Several of the members of that Convention spoke with the greatest reverence of monarchy, until the time was come when they thought they could overturn it. And we have a memorable instance that the greatest of traitors may profess attachment in the moment of the deepest treason. We know that the vilest traitor professed his loyalty whilst he was contemplating an act of the meanest treachery, and in the completion of that act cried, "Hail Master!" and kissed him. But does it follow because a man holds the language of loyalty, that he is therefore loyal? It certainly does not follow.

If the prisoner was loyal to the constitution of his country, what did he mean by his resolutions on the subject of the works of Paine, of Barlow, and several other resolutions which have been detailed to you, and which bear, at least, to the view of ordinary men, a directly different tendency? What did he mean by the address to the Jacobins, when he spoke of them as fellow-labourers with him in the same cause? What did he mean by the addresses to the National Convention, by the introduction to those addresses? What did he mean when he spoke of the vipers aristocracy and monarchy, panting and writhing under the grasp of infant freedom? Did he mean to say that he was loyal and attached to monarchy and aristocracy when he denominated them vipers, and when he described them as in the very moment of extinction?

Did he mean to express his loyalty by the admission of Saint André, Barrère, and Roland into his society, by holding out their speeches upon the subject of a National Convention, and the trial of the king, to the view of the people of this country? Why were there secret committees, and why a convention of the people, if his purposes were perfectly loyal, if he meant only that which he pretends he meant, if he meant nothing but an application to the legislature of the country, for that reform which he conceived to be proper? If, therefore, witnesses should be called in any number, to any such declarations of loyalty, can they make any change in your sentiments? Can they take the words out of the several addresses? Can they take out the words "the vipers aristocracy, and monarchy," and a thousand expressions of the same sort? Can they blot out the proceedings of the British Convention which he has approved? Can they destroy the resolutions of the 17th, of the 20th, and the 24th of January? If not, what purpose can they serve? At the utmost the production of such evidence can be only an attempt to oppose

* See his case in this Collection, Vol. 18, p. 529.

negative evidence, in itself utterly improbable, to positive testimony of facts, which, under the circumstances, I think you will be persuaded, cannot be accounted for in any manner consistent with such evidence.

I shall sit down, therefore, gentlemen, in the full persuasion that the evidence which will be produced to you cannot be controverted, and that its effects cannot be controverted; that it will fully prove the charge of high treason contained in the indictment; and that you, mindful of your oaths,—mindful of the important charge you have, that to your verdict is committed the safeguard of the constitution of this country, as far as the administration of its laws can be its safeguard,—mindful at the same time that the prisoner at the bar is one of the members of that society, and is likewise individually as much within your protection, as the collective body of that society is, and that, therefore, you are as much bound to do justice to him, as you are bound to do justice to that society;—yet mindful of the duty that you owe to that society, you are to give a just and true, and an honest verdict. You are not to be deluded by pretences, but are to endeavour to discover what the truth of the case is, and having discovered it, to give your verdict accordingly.

EVIDENCE FOR THE CROWN.

Mr. *Thomas Maclean* sworn.—Examined by Mr. *Bower*.

You are one of the king's messengers?—Yes.

Did you ever go to the house of a person of the name of Daniel Adams?—Yes; I went by virtue of a warrant from the secretary of state, on the 12th of May, in the morning, a little before eight o'clock, to the house of Mr. Daniel Adams; and I took him into custody, together with his books and papers.

Look at that book—is that one of the books you seized there?—Yes, it is.

[The book was put into court.]

Mr. *William Woodfall* sworn.—Examined by Mr. *Law*.

Is this the hand-writing of Mr. Tooke? [Showing a book to the witness.]—I believe this part [pointing it out] is; but I cannot swear it.

You are not asked to do that.—I never saw this entry—I mean merely to say, for my own sake, and that of the jury, that I only swear, that, as far as resemblance of hands strikes me, this is Mr. Tooke's writing.—I have seen him write, but not so often as his writing has passed through my hands.

But, however, from writing that you have seen, you are able to form a judgment?—I cannot say I am able to form a decisive judgment; but I believe, from the resemblance of hands, it is his hand-writing.

Mr. *William Woodfall* cross-examined by Mr. *Tooke*.

Are you sure you have seen me write?—Yes.

How long ago?—Some years ago; I believe, full seventeen; the period is a memorable one; I allude to the circumstance of an advertisement for a subscription for the widows, orphans, and aged parents of the Americans who lost their lives at the battle of Lexington.

That was in 1775, nineteen years ago?—You are perfectly right; it was nineteen years ago.*

I know the time; for I was prosecuted for it.—I know you have a good memory of what you hear—you have a good memory too of what you see?—The reason why I instanced this case was, because it was a memorable one, and is upon record.—You delivered to me, in my brother's counting-house, a copy of the advertisement, upon which I think you wrote the words "For the London Packet and Morning Chronicle."—When the trial came on, two years afterwards, at Guildhall, an indifferent witness,† whose name I cannot precisely recollect, proved the hand-writing in the same way as I have, if it can be called proof.—My brother ‡ was called before me, and he stated the facts; and one was, that you delivered to him one of those copies, to be sent round to the other papers; they were delivered to him and me; and you, in the course of your examination, admitted you gave it him for such and such a purpose. The record I speak of is the printed copy of the trial, from Mr. Gurney's notes, who is, I believe, the most accurate note-taker of his time.—I do not know that I have ever seen you write but once; but some of your writing has passed through my hands so lately as the year 1791.

Do you swear that is my hand-writing, or only that you understand it to be so?—That I think so. Then the very paper that I delivered, which was produced by the solicitor for the crown in court, was sworn to by a third person, and in the course of the examination you recognised the fact.

Then I understand you to speak of that which was written nineteen years ago?—Yes; and partly refreshed by subsequent writing of your own.

What you did not see me write, but supposed to be my writing—The last time you saw me write was nineteen years ago?—Yes.

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* See the case of John Horne in this Collection, Vol. 20, p. 651.

† See the evidence of Wilson, Vol. 20, p. 671.

‡ See the evidence of Henry Sampson Woodfall on the trial of Horne, *ante*, Vol. 20, p. 671. See also the testimony of this William Woodfall on the same occasion, Vol. 20, p. 674.

Do you mean to swear that is my hand-writing?—I mean to swear to the best of my recollection and belief, from the resemblance of hands, that it is your hand-writing.

Mr. *Law.*—Be so good as look at this entry in the book?—I believe the body of it to be Mr. Tooke's hand-writing; the signature, "William Tooke Harwood, chairman," appears not to be Mr. Tooke's hand-writing. The particular reason that makes me doubt it is, the *r*'s in the body of the paper and the *r* in the word chairman are different.

Mr. *Tooke.*—But all the rest you take to be my hand-writing?—The body only.

Mr. *Tooke.*—I only ask the question; the hand-writing may be fairly admitted. I think I could give to the prosecutor a great deal more than he has charged me with. I will not delay the Court with any more questions.

Mr. *Law.*—It may be read.—It purports that Mr. Tooke was a member of the Constitutional Society.

Mr. *Tooke.*—Oh, I admit it—I admit all that that paper contains.

Mr. *Garrow.*—These are the minutes of a meeting of the Constitutional Society on the 28th of March, 1794.

Mr. *Tooke.*—If the gentlemen will be so good as show me any thing which I wrote, I will save them the time and trouble of calling witnesses to it—I will admit it: if there should be a doubt, then they may call witnesses to it.

Lord Chief Justice *Eyre.*—In a case of this nature, so extremely penal to the prisoner, I do not think that the prisoner should be called upon by the counsel for the prosecution to look at a paper and to say whether he thinks it is his hand, or whether he chooses to acknowledge it or not.

Mr. *Tooke.*—I offer it freely and willingly.

Lord Chief Justice *Eyre.*—I see you do, but I should not feel very comfortable if it happened that you had admitted, without proof, some paper of which more use was made afterwards than you at the time were aware of, or thought there could be.

Mr. *Tooke.*—I protest, before God, I have never done an action, never written a sentence never uttered a syllable in public or private, I have never entertained a thought of any important political nature which, taken fairly, with all the circumstances of time, place, and occasion, I have the smallest hesitation now to admit: I choose my life and character should go together. I wish to admit all I have ever said, done, or written, to save time.

Lord Chief Justice *Eyre.*—I should prefer that the evidence should take its course in the ordinary way, because I do not think that any prisoner is quite competent to take upon himself to admit evidence which may be produced against him, the whole effect of which he may not happen to discover.

Mr. *Tooke.*—If it was a matter of libel I would not do so, but I will in a matter of high treason, where subtle arguments cannot take place, as I imagine; and if they can, I desire to be the first man that dies upon that doctrine: if any man is to die upon a doctrine of that kind, I am old enough to wish to be the first man, because I am sure I shall be the last. I anxiously wish to shorten the proceedings upon this trial, by admitting every thing I have said, written, or done; I am not at all afraid of the construction, I am not at all afraid of the consequence.

Lord Chief Justice *Eyre.*—I do not wish to depart from the ordinary rule that has prevailed in criminal cases.

Mr. *Garrow.*—We wish to have the entry of the 28th of March, 1794, read.

[It was read.]

[Vide Hardy's Trial *antè*, Vol. 24, page 561.]

Mr. *Tooke.*—Is the insertion of my name in that book evidence of my being present at the time?

Lord Chief Justice *Eyre.*—It is certainly evidence to go to the jury of your being present.

Mr. *Tooke.*—My name being found in any book! that will be the most extraordinary evidence I have ever heard of; the bulk of the trash that is to be found in that book I never saw or heard of before; but that every time that my name is to be found in the book, that that is to be evidence that I was present is a most extraordinary proposition; if I wrote my name in the book, that would be evidence that I was there when I wrote it, but my name being written in a book does not prove my being there when it was wrote: if the secretary were here he would prove that names of persons were entered in that book who were there only at the beginning, or perhaps not at all: or if they were there, heard something or nothing that passed. I could prove by evidence that repeatedly when my name is set down I was not there. A society is nobody: the first six letters in the alphabet meet to-night, and they vote black—another six meet to-morrow night, and vote white; which six are the society? And they may put down any names they please. If this evidence were to be admitted in a charge of high treason, and it should therefore follow that I partake of whatever is over or under my name, it would be the most extraordinary evidence that ever was admitted in a court of justice.

Lord Chief Justice *Eyre.*—You are perfectly right, if the state of the evidence depended entirely upon your name being found in a book in possession of a Daniel Adams; undoubtedly, in order to prove your being present at these meetings, they must go a great deal farther—they must show that these are the books of the society, they must give probable evidence that these were books which you had access to, which you acted upon, and that you gave credit to the entries that were in it by some conduct of your's. This is only one step towards the evidence, to fix you with being a person present at this meeting.

Mr. *Tooke.*—I think it will first make a subject for a serious argument as to my being present.

Lord Chief Justice *Eyre.*—That is for the jury.

Mr. *Tooke.*—I submit that what is or not admissible evidence is undoubtedly matter of law for the Court.

Lord Chief Justice *Eyre.*—Undoubtedly, what should be admitted as evidence.

Mr. *Tooke.*—I take it that this evidence goes to other persons; it may be true, or it may be false; but how is it possible for me to answer it? the less I know of it the less it is possible for me to meet it; I do not know what other persons may possibly do.

Lord Chief Justice *Eyre.*—Nor will you be required to give an answer to that which belongs to other men.

Mr. *Tooke.*—The prosecutor can never prove that I had access to the books, I would rather employ myself in playing with my fingers. I hope I have employed my time better, than in reading the same things over and over again, which for the last thirty years of my life have been written over and over again—it suits those that begin, but it is thirty years ago, your lordship recollects, when these sort of things were going forward—when your lordship, was recorder—and when we heard, and read, and saw all these things, and for me to come and read my alphabet over again! These are common place things; I never read the book; I will answer for it, the secretary never read it; and, be the thing it contains good or bad, I assure your lordship not a single member of the society knows. Where we have been particularly concerned, each man knows what he did himself; and in the report of the secret committees there are exactly eighteen lines which I wrote; I understand by the statement to-day, that these eighteen lines are offensive—it is about the words "faithful" and "honourable" being withdrawn; and I defy any man upon earth to prove that a tittle besides these eighteen lines contained in the report of the secret committee was written by me. The bulk of the things, it will be proved by their own evidence, I disliked and objected to, not because I thought they were criminal or treasonable; for I should be ashamed to be defending myself from facts which I conceive to be innocent: first, I meet the fact; if the fact is proved upon me, then I will show it not to be treasonable: but I shall be compelled to refuse to admit the papers, because I had no share in them. In some of them there is a great deal of merit, but not having been concerned in them, I really have not a share in that merit, which I think belongs to other men; and when I defend myself from these things, I beg I may not prejudice other men, for I do not consider them as crimes, but I was not present; and before your lordship admits this as evidence, I intreat your lordship will hear my counsel argue it as to matter of law. I hope I am forgiven for saying so much about it.

Lord Chief Justice *Eyre.*—A person in your situation is heard with attention, whether it makes directly to the point or no; you have spoken properly to the point at present; I can only recommend to you not to break in upon parts of the evidence, but to wait patiently till the whole evidence to that head is concluded, and then if it is not fairly brought home to you, I shall tell the jury that it has no fair application.

Mr. *Tooke.*—I think I am bound by law to meet every thing if it is not fairly evidence.

Lord Chief Justice *Eyre.*—It is difficult to to say what is or not evidence in itself, because it all depends upon the chain and connexion it has—if there are two or three links in the chain, they must go to one first and then to another, and see whether they amount to evidence; if you suspect that what they have to offer is not evidence, and not of that nature, you may call upon them to state in what way they mean to bring this home to you—that would be proper enough. At present they seem to me to be going on in the regular course.

Mr. *Tooke.*—I beg your pardon, my lord, but is not a chain composed of links? and may I not disjoin each link, and do not I thereby destroy the chain?

Lord Chief Justice *Eyre.*—I rather think not, till the links are put together and form the chain.

Mr. *Tooke.*—I rather think I may, because it is my business to prevent the forming of that chain.

Mr. *Erskine.*—The reason why I find myself disposed to give your lordship so very little trouble in the course of the evidence, is not only because I recollect that all that your lordship is hearing read is very much the same that your lordship and we have heard read, and have seen done, several years ago; but that my memory, which is not so extensive, and cannot at my time of life be so great, extends at least to recollecting that last week, or the week before last, when all the matter which has been proposed in the opening of the solicitor-general to be read, was read—was submitted to the consideration of this very Court, and to the consideration of a jury, in a case where the prisoner at the bar was the composer of most of the writings in question (to which my present client states himself to be a stranger), and who, in the sequel of the cause, when your lordship came to discharge the duty cast upon you by the law stated (and with the assent of us, who were Mr. Hardy's counsel), that we had never contradicted that he must be taken, as being the author of them, to be implicated in every part of them, and responsible for his conduct. Your lordship was pleased to declare from the bench, that the contrary of that proposition had been faintly asserted at the bar, as indeed it had scarcely been asserted; and,

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notwithstanding the office I hold here—and I am persuaded I shall have the justice done me to be believed when I say, that no man feels more acutely than I do my situation, standing as counsel for a prisoner for treason—yet, I say, I have felt no emotion at all in hearing these papers read, the quality of which I conceive has already had a satisfactory judgment of a jury. Be that as it may, since my client wishes I should say a few words to your lordship upon this subject, I will do it, not at all anxious upon his account, whether I shall prevail or not; but if it should turn out that I should be well founded in the little I shall have to say, in point of law, I shall be glad to say it, on account of the mischief that may otherwise follow to others, though none can to the gentleman behind me.

I understand, from the opening of the solicitor-general, that he means to say—means to say!—he has said it—that all these writings, taken together; all these *writings*—— for to day, your lordship will recollect, we have heard nothing of arms, nothing of force, no one act of hostility in contemplation proved, nor suggested——but the solicitor-general has been pleased to say (from what authority will by-and-by be inquired into, if I have strength to make the inquiry), that all these acts, taken together; all these correspondencies — correspondencies of whom? Correspondencies held between people, whom it cannot appear that Mr. Tooke ever saw; and your lordship will please to recollect that I am now standing—— *principiis obsta*, is a good motto——I am standing now upon the production of the first page of written evidence; your lordship, indeed, has been in court when the solicitor-general opened his case; but I ask the Court, unless his case had been made up of materials, of which, I hope, no crown brief will ever be again made up, namely, of accusatory matter from the two houses of parliament, which is to be read, printed upon the trial of a prisoner, your lordship could not give credence to any part of it at all, nor consider it as any thing more than the mere instructions which a counsel at the bar has from any client to state that client's case.

Then the overt act, upon this record, is for consulting to call a convention, and that convention is supposed to be a convention to subvert the fundamental government of this country, and to be therefore an act sufficiently evidencing an intention to depose and put the king to death; and the first step, or, to use my client's expressions, the first link of this chain is, that in the possession of a Daniel Adams, who is not yet called as a witness, in his custody, upon his apprehension, was found this book. It is not in evidence yet that any such society, as the Constitutional Society, existed at all; neither is it in evidence that this Daniel Adams, in whose custody this book was found, was the secretary of that society; and that cannot be proved but by calling the man himself, or proving, from the mouth of some other person, that he stood in that situation. Your lordship then has a book, which, *non constat*, Mr. Tooke ever saw, which, *non constat*, ever was in the place where this society, called the Constitutional Society, was supposed to have existed; but you have a book, with a white parchment cover, which a messenger of the king seized in the possession of a man, between whom and the prisoner at the bar no privity whatever is proved; for it does not appear that the prisoner was acquainted with Adams, had any conversation with him, or had even ever seen him.

I have always understood it to be a clear rule of evidence, that the best evidence, which the nature of the case will admit of, must be produced, and that you shall not have recourse to secondary evidence; and for this reason, that the production of the secondary evidence affords a presumption, that if the superior and primary evidence were produced, it would make against the party producing that which is secondary; that is the reason given by lord chief baron Gilbert, and it is what every man's own sense suggests. But it is said—and I feel the force of what your lordship says, as far as it extends—perhaps this may not ultimately come home to the prisoner, and, if it does not, it passes harmlessly over his head; he cannot be affected by any evidence read here, if it shall turn out in the sequel that the crown does not succeed to fasten the evidence upon him.

Now this is taken to be a component part with other writings of that which will constitute—what, a libel? No, my lord, but which will constitute an overt act of high treason, for compassing the king's death. Will your lordship, therefore, in a case of high treason, have resort to a species of proof which you know you could not have recourse to in a lower species of offence; for, let me suppose, that the crime charged upon Mr. Tooke was the having published this as a libel, as having been consenting to the writing of it, or consenting to the publication of it, or having been implicated, in any one respect, in giving it an existence, or in giving it currency, might it not equally have been said, read the paper first; when the libel is read, if it does not afterwards come home to the prisoner, he will not be answerable for its contents; and he cannot suffer, certainly, because it happens to have been read to the jury upon the mere evidence that such a paper existed.

Now, for instance, suppose this, as I am now putting it, instead of being an overt act of high treason, was, that the people, whose names have been read here, had published this as a libel, and that they were indicted for a conspiracy to publish this libel, would it be said that this should be read as evidence against the prisoner, before his connexion with it is proved to have had an existence? I

take the reason of that to be this—and I take the reason of it to be founded in great wisdom—in that which, in my opinion, forms the glory of the English law in all its parts, in an acquaintance with the human character, in the recognition of all that belongs to the principles of the human mind, in the recollection of our wise ancestors that men are not angels, that they carry about them, and your lordships even carry about you, all the infirmities of humanity; and that it therefore shall not be permitted to make a strong impression upon the minds of men, by reading matters at which——though I will not say that this matter is so, I am arguing upon general principles——at which the mind of man revolts; and so, in the course of a long trial, the jury afterwards cannot discharge from their recollection what they have heard; they do not remember with precision whether that, which was read, was brought home to the prisoner; and then they mix up, in their imagination and recollection, matters which they may disapprove, with disapprobation of the person who is on trial before them. I take that, with humility, to be the principle; then, if this is so, how can it possibly cease to be the same principle, when you consider the nature of the crime?

My lord, I do not affect to know, with great precision, all that has passed upon one of the most solemn trials, most undoubtedly, that has happened for many, many years in this kingdom; and which, most undoubtedly, as I said upon a former occasion, I most sincerely hope, for the honour of the country, will be the last of that description*—I speak of the trial, by impeachment, of Warren Hastings. If I do not mistake very much, and I think I do not, this very question was brought for the consideration of the judges upon that trial; whether a paper, which paper sought to implicate in criminality the prisoner at that bar, should be read agsinst him, even if it could be found in his custody, unless it could be shown, by evidence, that he was acquainted with its contents, and had ratified and recognized, and given it effect. I am speaking in the hearing of an honourable and learned gentleman, one of the counsel for the crown, who, very probably, may have an opportunity of correcting me in stating what I understand. But my learned friend and I have recently considered this matter, and we certainly are not able to distinguish, because it was argued with the greatest ingenuity there, just as it is argued here, that if it does not come ultimately home to the person who is to be accused by it, he is not to be affected by it; but it was answered by the judges, as I hope it will be by your lordships to day, that it must, first of all, be brought home to the person who is to be affected by it, before it is suffered to be read; for, after it is read, the effect is had, and that is the danger I complain of. Having done so, I do beg that your lordships, and the gentlemen of the jury, may recollect—I beg pardon for saying the gentlemen of the jury, I address myself to the Court—and I wish, my lord, that it may be recollected that I showed no disposition to—on the contrary, that I rather hung back from—the argument, because I conceived then, as I conceive now, that the matter, which is contained in this book, when it is explained, all which the solicitor-general has himself stated, will, most undoubtedly, not produce any effect which I have any occasion to shrink from, standing in this place, either as I represent the prisoner at the bar, or any other persons liable to be tried for the same species of offence.

Lord Chief Justice *Eyre*.—We are entangled in a little puzzle about this species of evidence.* If the question is, Whether it is now to be read? I think the objection is good. If the question is whether it is evidence admissible not yet to be read, but to be read, or not, as other evidence shall bring the matter of it sufficiently home to the prisoner? Then the objection is ill founded; but I think you are certainly right in saying, that it is not evidence merely from the finding of it upon Adams; it is not ripe to be read; and it was not read, I recollect now, in the former case, until Adams himself had been called, and had proved that this was the book; and that, in this book, were regularly and truly entered, all the proceedings of this society.

If it had gone to the length of the proof, that Mr. Horne Tooke was a member, and that this was a book in which the proceedings of the society were regularly entered, then it would be evidence to go to the jury, subject to all those observations that might be made upon it, the entries being carelessly made or entered, in the absence of a particular member.

Mr. *Bower*.—The parts wrote by Mr. Tooke himself must be evidence.

Lord Chief Justice *Eyre*.—Certainly, but I do not apprehend that goes to this entry.

Mr. *Garrow*.—Mr. Horne Tooke said he was a member of the Constitutional Society.

Mr. *Tooke*.—Mr. Garrow must not slide in upon us any thing that has not yet been decided. I pass it by at present. I acquiesce in what your lordship has decided. If the counsel for the crown should at any time, while we are talking upon another question, slide in something that should be taken as granted, I beg I may not so be understood to have admitted.

Lord Chief Justice *Eyre*.—You do right to make your objection at the time.

Mr. *Tooke*.—I admit I paid a guinea a year for the last ten years, to go into a room that other persons had a title, upon the same cir-

* See Hardy's Trial, *ante*, Vol. 24, p. 893.

* See East's Pleas of the Crown, pp. 98, 119.

cumstances, to go into, but I was not a member of a corporation; I was not accountable for any thing that passed; I could not be accountable, by my pocket, for a farthing, and therefore it would be strange if I should be answerable with my life.

Mr. *Garrow*.—I humbly intreat permission of the Court to make one or two observations, from the very uncommon situation into which the prisoner at the bar has put me. I hope that, upon any occasion, when called upon to discharge a professional duty, still more upon so important an occasion as this, I should not disgrace myself by any want of candour, decorum, or propriety. My lord, I may transgress, but, whenever I do, I hope that the members of my profession will do me the justice to believe, from what they have seen of my conduct, that it must be from that error to which we all are liable, but not from intention. I cannot, upon such a trial as this, which is every day, in some shape, correct or otherwise, published in the newspapers; and I have great reason personally to complain, manifestly and purposely, not correct with respect to myself, in the course of the last trial. I cannot permit all the newspapers of to-morrow to state, that Mr Tooke had found it necessary to complain, upon the first production of papers, that Mr. Garrow had thought fit to endeavour to slip something in. Let it be distinctly understood what is done; let my conduct be distinctly viewed, and then, those who seek to point me out by misrepresentations by name, by advertisements paid for, cannot represent it unfavourably to me, whatever their object may be. All this will not deter me from doing my duty, under the constitution which I am happy to be the subject of; for I think, to use the language of a very learned judge, that a man cannot die too soon, when he dies doing his duty. Let it then be understood what it is I have been doing. This book was produced; nobody could doubt, that, to read the hand-writing of the gentleman at the bar, it was competent evidence. We have Mr. Adams to go through those other stages which we have known by experience it was necessary to go through, in order to make that whole book evidence. In the course of this, Mr. Tooke proposed to make some admissions, and, upon its being stated, that this was to prove him a member of the Constitutional Society, he said, or I misunderstood him, that he was a member of this Constitutional Society. I am not repeating that, in order to slip in something in the hearing of the jury; I am above that practice; in the lowest cause that could ever be trusted to me, I do not desire to get a verdict for any body, or by any means, by means which disgrace all that attempt them by such means. I know we are upon a public theatre, that we have the eyes of a great public upon us; and that we must conduct ourselves with propriety—we *must* do so, there is no merit in doing it.

What is it I have been doing? Not in a whisper, not aside to the jury, to make an impression upon them;—I said, that it did happen, as it appeared to me, that Mr. Tooke had himself said he was a member of that Constitutional Society.

I do intreat Mr. Tooke to believe, that I can have no personal wishes; he and I have met, upon former occasions; I have thought that nothing had ever passed between us, and that he had never seen any thing in my character that could induce him to believe I had any; but I must discharge my duty: I hope from his candour, as well as my friends, that they will not take these opportunities to throw out these sort of insinuations, which cannot have the effect to deter me from doing my duty. I beg pardon of the Court for having trespassed on their indulgence, but, when such an observation as that was made by a gentleman who does not make any observation lightly, I did think some vindication of myself was necessary.

Mr. *Tooke*.—I beg to make an apology to Mr. Garrow. I did not mean to impute any thing to him: I only thought it necessary for me, in a situation where I am so materially engaged, to prevent any misapprehension. I did not mean any sort of reproach to him, nor that any reproach should fall upon him, nor any reproach in the newspapers, which I have not had any concern with for twenty years. As to calumnies in newspapers, I have a volume of newspapers here full of calumnies. I have read in a book, formerly, cursed is he who revileth the deaf.—My lord, I have been deaf, blind, lame, and dumb, for many months past, and there has not passed a single day, while I was bound hand and foot in close and severe custody, that papers, paid by the ministry, have not charged me with guilt, and with facts absolutely false; and, the attorney-general, who is so careful a *censor morum*, will, I am sure, do me justice hereafter; whether I escape with my life, or not, he will take care that the justice of this country shall not be run down in the manner I can show your lordship. There is abuse even printed on earthen-ware as well as sermons, books, songs, and newspapers, full, at which I might be angry as well as that gentleman—I am sure I meant him no wrong; he never did me any; nor did I mean him any disgrace; and if it will do any good to his character, let it be said in the papers to-morrow, that I humbly beg his pardon.

Mr, *Garrow*.—Mr. Tooke has carried his apology much farther than I wished.

Lord Chief Justice *Eyre*.—I have permitted this explanation to go to its full length. I hope, on all sides, that there may be no occasion for any discussion of this sort again; it is very unpleasant. If every body were to state their complaints of the calumny of newspapers, we might put an end to this trial, and listen to nothing else.

Mr. *Attorney General* to Mr. William

Woodfall.—Do you know the hand-writing in this book? (showing it to the witness).

Mr. *Tooke.*—That book is all my hand-writing.

Mr. *Woodfall.*—I believe it to be Mr. Tooke's.

Mr. *Attorney General.*—What is the title of it?

Mr. *Woodfall.*—It is written, on the outside, "Constitutional Club."

Mr. *Daniel Adams* sworn.—Examined by Mr. *Bower.*

Have you been secretary to the society for Constitutional Information for some years past?—Yes.

How many years have you been secretary?—Ten.

Is that one of the books, containing the proceedings of the society? [showing it to the witness.]—Yes.

Are the entries made in these books made by you, in the capacity of secretary to that society?—Yes.

Mr. Tooke was a member, as he admits, during the last ten years; if you turn to these entries, you will see the names of persons stated as being present. My question is, did you put down the names of such as were present, or of persons that were not present?—I put down the names of those that were present, and not present; I will explain myself:—they came into the room, and their names were put down; it frequently happened, that they went away soon after their names were put down.

Did you put down persons who were not present, at some time or other, of those evenings, when their names were put down?—Some gentlemen frequently dined together; their names were put down whether they went away as soon as dinner was over or not, as attending the whole evening.

Lord Chief Justice *Eyre.*—Were their names put down before they went to dinner?—At seven in the evening their names were put down, though, perhaps, they were not there at seven in the evening.

Lord Chief Justice *Eyre.*—At seven in the evening the society was formed?—Yes.

Lord Chief Justice *Eyre.*—And were, then, all the names of the persons that had been at dinner put down, whether they remained at the hour when the society was formed or not?—Yes, if they were members of the society.

Mr. *Bower*—How did you begin the business, and what was the first thing done at each night of their assembling?—The first business was, to enter the names, and to read over the minutes of the last meeting.

Were the books produced then, with the resolutions, and the entry of the last meeting inserted in them, at every subsequent meeting, so as to be read at the subsequent meeting?—Yes.

And was it the practice of the society, that the acts of the former meeting were read at *the subsequent meeting?*—Yes.

Whether Mr. Tooke, as a member of this society, had, or not, opportunities of recourse or resort to these books; and whether there are any entries, or any corrections in Mr. Tooke's hand-writing?—I do not know that there are any corrections in Mr. Tooke's hand-writing in the books.

Were the books laid open for the inspection of the members at the meetings?—During the meetings, at no other times.

Was Mr. Tooke a frequent attendant there, or only seldom?—He was frequently there.

Was he as frequently there as any other member of the society, whom you can recall to your recollection?—He was frequently there; but, living out of town, he did not often stay quite so long as other members.

But was he in the habit of being at the society at the time these books were produced, after the dinner was over, and the dinner party broke up?—Very often; it could not always be the case.

Was he generally, or only seldom?—He was frequently.

Did you copy into that book from other minutes?—Yes.

Given to you by other persons; I confine my question to minutes given by Mr. Tooke?—I cannot say that; they were handed up to me from different people in the room.

Look at that book; is that one of the books of the society?—Yes; but some of these entries were before I was secretary.

Is it a thing you put down at random, or do you put it down as certain that persons are in the chair whom you put down as being in the chair?—As being in the chair; but they do not always remain in the chair.

When there are two chairmen in one evening, is that always noticed?—It is sometimes, but not always noticed.

I understand you, that you never enter a person as being in the chair that was not in the chair, though he may not have staid all the evening?—Certainly not.

I before asked you whether that book contained a true state of the proceedings of the society?—As far as I know, as far as I have copied; I do not know that I have copied them correct; I do not know that I have not made any mistake.

But you have not made any wilful mistakes?—No.

Mr. *Daniel Adams,**—cross-examined by Mr. *Tooke.*

The questions put to you by that gentleman I see have rather alarmed you: you have

* In the printed report of this trial, taken in short hand by Blanchard, some parts of this cross-examination are given more clearly than by Gurney; I have in such cases corrected Gurney's report accordingly; where a material difference between the two reports occurs, I have mentioned it in a note, Gurney's account being adhered to in the text.

talked with me oftener, and I have nothing to ask you that you will have any difficulty in answering. A gentleman tells me, which I hardly knew, that the names were taken down upon paper, corrected by different persons, and that you copied them afterwards into the books of the society, sometimes the same night, but most commonly after—was it so or not?—The minutes certainly were so; the names were generally put upon one paper, and the resolutions were slips of paper frequently, most generally.

Did you enter them the same night, or at other times?—At other times, three or four days after; before the Friday following.

That the Court may perfectly understand the examination that has been had, I would ask, was there not what was called a Constitutional Club, a dinner meeting, besides the society for Constitutional Information?—Yes.

That dinner club, of which the gentlemen have the green book which contains nothing but the names of persons who dined there?—I believe nothing else;—I never saw much of it.

Do you remember that there was a regular dinner?—Surely.

At what hour?—Four, or a quarter past four—I believe four exactly.

Was that dinner company only of persons members of the society, or visitors, and others?—Of every gentleman whom any person thought proper to bring with him.

How many years have you been secretary of this society?—I believe ten years.

Was I a member before you were secretary, or afterwards?—Before.

When first you were a candidate to be secretary to the Society for Constitutional Information, was it, or was it not, known and declared that you had a place under government at the same time?—Yes; it was known that I had.

Was it known that you had permission from some persons belonging to the board where you had a place, to become secretary to the Constitutional Society?—Certainly not from the board.

Some persons belonging to the board?—Not by some persons that belonged to the board.

By some person?—It was understood so by a very particular friend of mine ten years ago, that I was secretary to that society.

That it would not be offensive to the board?—I do not know that it went so far as that.

Have you the books of accounts of the Society for Constitutional Information, or were they seized with the other books?—They were seized with the other books.

Do you recollect what was the usual subscription paid by the different members of the society?—A guinea a year.

Was the society very rich?—Never.

What sum of money do you think all the subscriptions together might amount to in a year?—About sixty pounds, but I do not know exactly.

How much of that went for the regular expenses of the society, the secretary, the room, paper, pens, ink, messengers, and so forth?—At that time about fifty pounds.

Then there was about ten pounds a year left to overturn the government with; were you generally in arrears, or in advance?—In advance generally to the society.

I ask this question only to show the riches of the society; how capable they were to overturn the great weight of government. Do you recollect any thing of the 25th of October, 1793? do you recollect some motion that was made for another meeting to be called for the purpose of taking into consideration whether they would or not send delegates to the British Convention in Scotland?—I cannot charge my recollection.

Mr. *Bower*.—If you entered it, I presume it will be found in the book?

Mr. *Tooke*.—Turn to the book, the 25th of October, 1793, if you please. It is not to delay the time of the Court.

Lord Chief Justice *Eyre*.—Do not imagine that we think so, go on in your own course.

Mr. *Tooke*.—Do you find Mr. Tooke's name there?—Yes.

Do you now recollect what passed at that meeting? do you recollect that an extraordinary meeting was proposed to be held?—I remember there was such a thing.

Was Mr. Tooke present at that time?—I do not believe that he was.

Cannot you, by the circumstances, be sure that he was not?—Yes; I am certain he was not, because he went away very early.

That was an extraordinary meeting, called for the purpose of considering whether they should send delegates to the British Convention?—He certainly was not.

Lord Chief Justice *Eyre*.—Then what you say is, that Mr. Tooke was not there at the time that proposition was made?—He was not.

Lord Chief Justice *Eyre*.—Had he been there before?—Yes; and was gone.

Mr. *Tooke*.—Do you recollect that for the purpose of that extraordinary meeting, which was held on the 28th, only three days after, you were directed to send summonses to the different members?—I do.

Is not that a circumstance by which you recollect that I was not there at the time?—It is.

Do you recollect that you did not send a summons to me upon that occasion, but that two members of the society undertook to come down to inform me of it?—I do.

Do you remember the names of those persons who undertook to inform me of that extraordinary meeting?—I believe I do.

Mention them?—I think they were Mr. Sinclair and Mr. John Williams.

When the extraordinary meeting was held on the 28th, do you recollect whether I was there, or not?—You were not there.

Have you good reasons to know that I opposed strongly, and disapproved with anger, the sending of those delegates to the British Convention in Scotland?---I certainly have.

Lord Chief Justice *Eyre*.—What reason have you to know that?—From a conversation with Mr. Tooke himself.

Mr. *Tooke*.--- Have not you other reasons? had not you conversations with other persons?---It was the general opinion that Mr. Tooke objected to it; it was the opinion of Mr. Sinclair and Mr. Williams, I believe, who waited upon him.

Can you recall to your memory any persons wrangling with me afterwards for that opinion of mine? can you recollect at any subsequent meeting any angry, any strong words between me and any other member, because I did not attend that meeting, because I did not approve of that business?---I cannot recollect; but I know it was understood by most of the members, or all of the members present, that Mr. Tooke did not attend that meeting because he disapproved of the measure.

Do you recollect a report among different members of the society in consequence of that, that I was bribed by the government?—Yes.

Was Mr. Yorke a member of the Society for Constitutional Information?—I never understood that he was.

I mention it because it has been stated today that he through illness did not go to the British Convention where he was sent. Can you state the reason why he did not go?---Because he wanted money.

Was there any money for Mr. Yorke?—None.

Was there much money for Mr. Sinclair?—Hardly any.

Did you send him a letter in answer to his request for money?—Yes.

Of what nature was it?—Advising him to come home, as it was the general opinion that he had better not be there.

The general opinion of whom?—Of the society.

Then you understood this to be the purport of Robins's letter to him?—The letter is here, I wish to refer to it.

Mr. *Tooke*.—If the letter is here, I hope it will be produced.

Mr. *White*.—What is the date of it.

Mr. *Tooke*.—September or October, 1793. It shows that the whole society, except four or five, were extremely angry at the measure, and would not subscribe twopence to it, because they did not like it. Do you think I ever subscribed any thing upon that ground?—I think Mr. Tooke did not.

I suppose the list can be found?—This is one of my letters; I do not know whether it is that which Mr. Tooke refers to.

Is it the discouraging letter?—It is one of the discouraging letters; I wrote more than one discouraging letter to him.

Mr. *Attorney General*.—Whose hand-writing is that letter, and how much of it is Mr. Tooke's?—I never saw the hand-writing in my life, till I saw it at the society's, nor do I know whose hand-writing it is.

Look at the back of it.

Mr. *Tooke*.—What it written on the back is my hand-writing. Do you recollect to what time the society adjourned after this sending of delegates to the British Convention on the 28th of October?—To the 8th of November.

To what time did they adjourn from the 8th of November?—To the 6th of December.

On the 6th of December, to what time did they then adjourn?—To the 10th of January.

So it appears that the society so little liked the business, which four or five members had done; that during the sitting of the British Convention, and when the delegates wanted support, they first adjourned for a month; then met and adjourned for five weeks; that does not show great eagerness in that cause. Look to the 21st of June, 1793, to the names of the persons who were then present; do you find Mr. Yorke's name there?—Yes.

Do you recollect that you objected to his being present, supposing him not to be a member?—I do.

Do you recollect that the gentlemen present intended then to have adjourned to the next winter; and can you recollect any member, then present, strongly endeavouring to persuade the society that something ought to be done, by way of declaration, or something or other?—Yes.

Do you recollect that Mr. Yorke pushed very hard for another meeting?—Yes.

And that another meeting was held to oblige him?—Yes.

And that an address was ordered by the society to be drawn up to the nation?—Yes.

And that it was never drawn up?—Yes.

Mr. *Tooke*.—I do not know that Mr. Yorke has said or done any thing improper; if he has, it must be pinned upon his back; a gentman meets in a society, and proposes something which others do not approve, and they negative his motion; he goes 300 miles off, and there he does something which is thought to be, or might be wrong, that is attempted to be given in evidence, to fasten it upon those men who would not suffer him to do it in the place where they met him. I draw this from the evidence to show your lordship upon what these treasons are built.

Lord Chief Justice *Eyre*.—It will depend upon the subsequent conduct of the other persons with regard to that.

Mr. *Tooke*.—It has been done in this speech, but I do not know that there is any harm in this very speech of Mr. Yorke's.

Lord Chief Justice *Eyre*.—If the case was that Yorke's speech was printed and brought back to that society and then approved of, though it could not be imputed to the society in respect of their former conduct towards

Yorke, it would be imputed to them in respect of their subsequent conduct.

Mr. *Tooke.*—I agree; that because then they could do something themselves. That was in the last trial endeavoured to be put upon Hardy; and it happened that what Mr. Yorke endeavoured to say in London, and was prevented, he went to York or Sheffield, and said it there; that was endeavoured to be put upon Hardy.

Lord Chief Justice *Eyre.*—Hardy had no wrong done him in that respect, because there was evidence to bring home the conduct of Yorke to Hardy.

Mr. *Tooke.*—But your lordship will see the wrong that will be done us, if what is done by one is to be imputed to the whole; it is not a corporation, it is a non-entity.

Lord Chief Justice *Eyre.*—I am perfectly aware of that.

Mr. *Tooke.*—I certainly remained when many respectable characters quitted the society: the duke of Norfolk, the duke of Richmond, and many others; they had reasons for quitting; but because I was more consistent than they, it would be very hard that I should be thought more criminal. Mr. Adams, you know that I lived at some distance from London?—Yes.

Have you ever been at Mr. Tooke's house?—Yes.

Do you know that his family is very small?—Yes.

Do you know that his gardener goes to bed at nine o'clock, and gets up to work in the morning at four o'clock?—I cannot tell that.

Do you know Mr. Tooke desired to get home very early?—Yes.

And frequently went away when the society met.—Yes.

And that sometimes he staid to make up nine for a ballot, and then went away?—Yes.

Do not you know that you have frequently requested me to stay in order to prevent the society doing any act?* Do not you know that for upwards of two years my declared opinion to you was, that the society should lay upon their oars, and adjourn to as distant days as they could?—Certainly.

Mr. *Tooke.*—I must be a very uncommon leader, my lord. Mr. Adams, do not you know that I was always ready to sign any thing that you wished not to sign.† Did I or not, always say, that I never would consent to any thing which I would not myself sign?—I think you have always said so.

Have I* not sometimes done so?—Frequently.

Do you know who was called the father and founder of that society?—Major Cartwright.

Have you ever read the report of the Secret Committee of the House of Commons?—No.

Did you ever read the books and papers, except those which were sent to the Society for Constitutional Information? were you acquainted with the books, papers, and communications of other societies?—Certainly not.

Was it the custom with members of the Society for Constitutional Information, when they met, to read over the books of their own society?—O, no.

Not being a partnership book in which their fortunes were much concerned, they did not trouble themselves then much to know what had been entered in it at different times?—No; they hardly ever looked at it.

Mr. *Tooke.*—I asked this question that the prosecutor may perceive, that so far from being accountable for that monstrous collection of different societies, that they did not know their own collection; they never read what was in their own books.

Lord Chief Justice *Eyre.*—Do you mean a different reading from the minutes—I think you said the minutes were read over always before you began your business?—Yes.

Lord Chief Justice *Eyre.*—That they were in the habit of reading the former minutes?—Yes.

Mr. *Tooke.*—They were laughing and talking of something else; there is nothing much, your lordship will see if you look at them, to engage any body's attention.—Do you know, or can you recollect, that when I could not stay, you* have spoken to some particular friends to beg them to get an adjournment of the society?—It may have happened once or twice, I do not know that it has more.

I do not want to put you in a hurry; I know your disposition very well. What was usually the number, as well as you can recollect, one time with another, of persons who met together at that society?—I should not suppose more than ten, upon an average; there have been thirty, and sometimes not more than six.

Were they armed with pikes or muskets?—No.

Did you ever hear any talk of any thing of that kind in the society?—Never in my life.

Were all the members of the society, do you believe, of the same way of thinking?—No; I think not.

You believe there were sometimes debates?—Yes.

And sometimes a contrariety of opinion?—Greatly so.

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* The two preceding questions are thus reported by Blanchard: "Does he [the witness] know, that sometimes I have stayed, at Mr. Adams's request, to make nine for a ballot, and gone away in order to prevent the society from doing any thing at all, or to adjourn?"—"That I have certainly."

† The first part of this question Blanchard puts as a separate and very different question. "Does Mr. Adams know that Mr. Tooke was always ready to sign any thing that Mr. Adams wished him to sign?"—"Yes."

* Blanchard says "Have you."

† According to Blanchard it is "I have," &c.

Was there ever in the society such a thing as a secret committee?—Never.

Was not every thing transacted openly and publicly?—Yes.

There were a great many orders, I perceive; but first were there frequent committees of correspondence?—Yes, frequently.

Did they ever correspond or write any thing?—I do not believe there were above one or two letters ever wrote.

In the course of the ten years?—Yes.

I see in the reports that vast numbers of papers were ordered to be printed, a hundred thousand, I believe, once, to be sent to all the correspondents in England, France, Scotland, and Ireland; were any papers printed?

Mr. *Adams*.—Shall I trouble you to know what resolution it was?

I do not recollect; but were there ever a hundred thousand printed of any thing?—No; nor a quarter of the number. I do not mean to say that there ever were more than five or six thousand of any.

Mr. *Attorney General*.—I understood you to say, that a hundred thousand were ordered to be printed, but that you do not know of more than five thousand being printed?—I cannot say exactly, to five thousand of any one work.

Mr. *Tooke*.—But do you recollect that a hundred thousand were ordered to be printed of something, and that it was never printed at all?—Yes; I was ordered not to print them.

Do you recollect a great number of correspondents in France, Scotland, and Ireland, that the society had?—I do not know that we ever corresponded with any body, except in France.

Were the number of letters which they sent, or that they received, the greater?—In France we never answered one.

But I mean any where else: did other societies write to us, and we neglect to answer them?—Yes.

Were we often reproached for so doing?—Very much so.

When I went away from the society, which I usually did early, did not some other member of the society usually go home with me?—Yes, sometimes.

Do you recollect who?—Sometimes Mr. Sharpe used to go with you.

When you were first appointed secretary was it not the custom of the society to print pamphlets, and other things, and distribute them gratis?—Yes.

Has that been the case for the last three or four years?—No; there have been pamphlets printed, and given away, or taken away; I do not know that they have ever been distributed or sent; I cannot charge my memory with any, they have been so trifling, if there have been any.

Do you recollect that before you were dismissed from your employment, you mentioned your expectations that you should be so, to Mr. Tooke.—I did.

Can you recollect the advice Mr. Tooke gave you upon that occasion?—I do not know that I can exactly; I believe it was to speak to sir John Dick, one of the board, whom you thought a good-natured man, I believe.

I know him intimately myself, and could have spoken to him for you; but can you recollect my saying, that the society would never be able to do you any good?—I do not recollect that.

Let me try by another circumstance; can you recollect my advising you to do yourself good, and let us so far be the instrument of good, by going to those under whom you had a place, and giving them all the books and information you possibly could relative to our society; and that I would justify your character for so doing?—I do not recollect it.

But the fact is so. Wishing to serve the secretary, and knowing no other method, I wished him to do that of which he has been, I believe, falsely accused. Had the privy council our books of account?—Yes.

Of the expenditure and receipt?—Yes.

Were any questions asked you concerning them?—I do not recollect there were about the receipts.

Is it not absolutely certain that if they looked to the books of expenditure, it must have been known by those who looked at the orders for the number to be printed, whether they were printed or not?

Mr. *Attorney General*.—The book would better shew it.

Lord Chief Justice *Eyre*.—That can properly only be known by the books themselves, it comes pretty much to the same thing, if you ask him whether the state of the finances of the society enabled them to print.

Mr. *Tooke*.—They would be able to see whether the finances enabled them to print?—Yes, certainly.

Can you guess why in the report which mentions that they were ordered to be printed, it was not inserted that they were never printed; do you know any reason why it was not inserted that they were not printed; and since it may be seen by the book of expenditure, that none were printed, do you know any reason why the order should be put in, and the non-performance of that order omitted?—I cannot tell the reason; I believe it was never meant that they should be printed.

I see on the 14th of November, a hundred thousand copies ordered to be printed for our correspondents in Great Britain, and Ireland; had the society any correspondents in Ireland?—No; I do not recollect that they had; I cannot take upon me to say; I believe not.

Lord Chief Justice *Eyre*.—You do not know of any?—I do not recollect any.

Mr. *Tooke*.—Have you often heard me joke and laugh at the insignificance of that society?—Very often.

Have you ever heard me declare myself a

friend to universal suffrage?—I cannot immediately bring forward that expression exactly.

Universal suffrage means that every person in England should have a vote for a member of parliament?—I have heard you express it in that light.

Do you remember when, and upon what occasion? you misunderstand me now—

Lord Chief Justice *Eyre*.—You have heard Mr. Horne Tooke speak for it; is that what you say?—Yes.

Mr. *Tooke*.—For fear there should be any error. Whether you have heard me at any time say that I was for a representation of the people universally, that every man should have equally a vote?—I have, certainly.

Mr. *Tooke*.—I believe he is the only man in the world that ever did hear me.

Mr. *Adams*.—If I have said any thing I did not immediately understand, I should be very sorry.

Lord Chief Justice *Eyre*.—Do you wish to explain any thing you have said?—I would wish Mr. Tooke should explain any thing.

Lord Chief Justice *Eyre*.—No; have you yourself any wish to explain any thing?—No.

Mr. *Tooke*.—Do you recollect major Cartwright proposing his four propositions of the Declaration of Rights; or do you know any thing about the Declaration of Rights?—I believe it was not in my time.

Were you present at the anniversary of the society the 2d of May last?—Yes.

Do you remember what passed from me on that day; do you remember the substance of what I might then say?—I do not indeed.

No part of it?—I could not call to my recollection any part, I was so much engaged.

Will your memory enable you to recollect the anniversary of the French Revolution in the year 1790?—I remember attending it; was it at the Shakespear?

Mr. *Tooke*.—No, at the Crown and Anchor; do you remember earl Stanhope being in the chair?—No, I do not.

As far as you could perceive, and as far as you recollect, do you think that I put the society on too strong measures, or kept them back; do you think that I was forward?

Lord Chief Justice *Eyre*.—You put your question very distinctly before.—I do not know how far I might judge of strong measures: there were some questions put I thought too strong; there were other questions you endeavoured to prevent: there was nothing that I ever had an idea of about treason.

Was there any thing which gave you cause to think that any of the members of the society ever intended either to depose or kill the king?—Oh, no!

Did you ever think they intended to take up arms, or accomplish any thing by force?—No.

Did you think they were either bold enough or strong enough?—Oh no, never!

What do you think was the object of the greater part or all of that society?—The greater part was for a Parliamentary Reform, and perhaps all might be; but some of them took it in a different view from what I did.

Do you think that these were sly fellows, who meant something that they did not say?—No; I believe they meant all they said.

You think they were sincere?—Yes.

You have every reason to think so?—Yes.

And no reason to think the contrary?—No; I had every reason to believe they were sincere in what they said.

You do not think they made use of this as a pretext for something else: you do not think that with their great wealth or force of arms, they meant to subvert the government; but that they were sincere in wishing a reform in the Commons House of Parliament?—Yes; a reform in the Commons House of Parliament: but they were not all of the same opinion in the manner of doing it; some went farther than others, undoubtedly.

Do you recollect any correspondence between the society for Constitutional Information and Skirving, or any person residing in Scotland?—I recollect their sending a letter, but not our answering any; if it is so, it is in the books, which I beg to refer to.

Have you kept back any letters, or papers, or correspondence whatever; are there any but what have been given up or that have been seized on?—I do not know of any; it is possible that there may be some, but never kept back intentionally.

Can you recollect the appointment of a Committee of Correspondence on the 4th of April, 1794—"Resolved that there be appointed a Committee of Correspondence of the members of this society?"—Yes.

Can you recollect in what manner that committee of correspondence was appointed?—In the usual way I think.

But can you recollect this, that I being requested to be a member of that committee, declared that neither my health nor my business would permit me to be a member of it?—Give me leave to read the minutes.

Lord Chief Justice *Eyre*.—Do you remember what Mr. Horne Tooke says?—Yes, I do remember it; that his health would not permit him to be on that committee.*

Mr. *Tooke*.—Did I ever meet the committee?—I believe never: I do not know that the committee itself ever did meet.

Do you recollect how the Committee of Co-operation was appointed. The resolution is: "That the committee of correspondence appointed by this society be the committee for correspondence and co-operation with committees of other societies." You have spoken to the manner in which I was named of the

* This answer is thus given by Blanchard: "Yes, I do remember that you said, that neither your health nor your business would permit you to be a member of that committee."

committee of correspondence, and therefore my name appeared as on the committee of co-operation, because they voted afterwards that the same committee should be a committee of co-operation; but do you know, think, or believe, I ever met either of the committees?—It was understood that you were not appointed.

Mr. *Tooke*.—But my name appears there as though I was, and has been so published?

Lord Chief Justice *Eyre*.—You do not know that Mr. Horne Tooke ever met that committee of co-operation?—I do not know.

Mr. *Tooke*.—* I ask a great number of these questions to get rid of the fact from myself: I hope they will be of no prejudice to others; but I would not have it thought that I consider it as a crime by pushing it from myself, for I do not.

Lord Chief Justice *Eyre*.—You are perfectly right in pushing it from yourself.

Mr. *Tooke*.—Do you recollect notice being given by me that a motion would be made by me, at a future meeting, for two books to be prepared; in one of which should be written the names of those who deserved the reprobation, and in the other, the names of those who deserved the gratitude of the society?—I do.

Do you remember that no such motion was ever made?—There was not.

Do you recollect a little mirth at it?—There was a laughing about it.

Can you remember ever to have heard me say that I had lain out of my own bed but twice for the last seven years?—I cannot take upon me to say.

Can you remember my saying, that if there were a meeting of any of the friends of liberty, for any good purpose, upon Wimbledon Common, that I should certainly be found there?—Yes.

But that if it was farther off I should not be found there, because my health would not permit?—I do remember that.

Mr. *Tooke*.—I have proved one thing for myself, and another thing against myself; that I love liberty very well near my own home, but would not go a great distance for it. Were you at the last dinner of the Revolution Society in 1793?—I have no doubt of it; I have generally attended.

Mr. *Tooke*.—They are very numerous; I belonged to four constitutional societies; this is the revolution society; the Dissenters keep the 4th, and the Church of England the 5th of November, I believe. Do you recollect my giving a toast that day?—Yes, I do.

Can you recollect the substance of it?—If you will repeat it to me, I shall recollect it.

Was it in these words, or to this effect: May the people of this country never forget nor forsake the present family on the throne, until it shall appear by their conduct that they have forgotten or forsaken the principles which placed them on it?—I do very well remember it.

Lord Chief Justice *Eyre*.—Be so good as repeat it.

Mr. *Tooke*.—May the people of this country never forget nor forsake the present family on the throne, until it shall appear by their conduct that they have forgotten or forsaken the principles which placed them on it?—I do remember it.

Are you able to tell me who established the dinner club?—I believe you did.

Do you recollect why that dinner club was established?—I rather think it was in order that the members might meet better.

Do you think the meeting was at half after four, rather than at seven, that I might go home sooner?

Lord Chief Justice *Eyre*.—There might be something to do.

Mr. *Tooke*.—There was nothing to do at the meetings but to eat and drink. Can you say what you meant, or what you believed those of the society to mean, when they said they would co-operate with the Corresponding Society in order to obtain their great end: What did you understand by that great end?—I understood a Parliamentary Reform was meant.

Do you recollect many candidates being black-balled that wished to be members of the society?—Not a great many.

In ten years, do you think there might be ten?—I believe not ten persons.

It was not a very secret society then, and not much afraid of spies. Can you swear that the names which are to be found in the books which are called the books of the society were there at the time that the business inserted under their names passed?—Certainly not.

Do you recollect an affectation or imitation of French phrases in the books of the society?—I do not know that there is in the books: I am not so certain of that.

Mr. *Tooke*.—I asked an improper question: the books will better tell that; if they are there they are easy to be found, and would have been found before this. Did you send any notice to St. André and Barrère that they were elected honorary members of the Constitutional Society?—No.

Were you directed to send any?—No.

Did you yourself enter all or any part of the speeches of St. André and Barrère in the books of the society?—Not any part.

Were you bid to insert any?—Yes.

* Blanchard gives the following account:

"Mr. *Tooke*.—I ask a great number of questions with respect to these facts, though I think no manner of harm at all in them.

"Lord Chief Justice *Eyre*.—It is proper and necessary for you to ask a great number of these questions. It is proper for your case.

"Mr. *Tooke*.—But it looks as if I thought it was a crime, which I do not, and wished to pass it from myself.

"Lord Chief Justice *Eyre*.—You are perfectly right to pass it from yourself."

Did you insert any?—No.

Had you the newspapers to insert them from?—No.

Were the newspapers in the society?—Not that I know of.

Mr. *Tooke.*—But every body else might have the speeches, without being charged with treason: I have been told that the man who really published the speeches, who sold them to every body that would buy, was called as an evidence on the trial of Mr. Hardy, to prove guilt in those who only talked of inserting them.

Lord Chief Justice *Eyre.*—Certainly it is true that the man was called to prove that there were such speeches in the Moniteur.

Mr. *Tooke.*—And that he sold them, in order to criminate the society.

Lord Chief Justice *Eyre*—The way in which the society was criminated was, because they had published to the world that these were the speeches for which they had made these persons honorary members; it was argued that that was pointing out to the world these papers, and recommending them to their attention; that was the way in which it was used.

Mr. *Tooke.*—And it was fortunate for the society that they did not say such a thing as this—there are some good things in the Coran, which are worth attention—they might have been charged with Mahometanism if they had recommended any part of the Coran. Had you, after the war, any direct or indirect correspondence whatever with any persons in France?—Certainly not.

Do you know that any member of the society had?—No.

Do you think they had?—Not that I know of—I speak from my own knowledge.

Did you ever see, or hear of a letter from Mr. Margarot to the London Corresponding Society, containing these words: "We cannot say so much of citizen Sinclair, from the Society for Constitutional Information. He has been confined to his bed, ever since Saturday, with a violent fever and sore-throat; he is something better this morning. He is a valuable young man; and should he die, his loss would be severely felt, not, indeed, by his constituents, who have basely abandoned him?"—I rather think I have read it; it must appear upon the books.

No; I do not believe it is upon the Constitutional Society's books. This letter was seized, and we get the knowledge of it by having it printed in the report; here is Margarot's testimony that the Constitutional Society had deserted them.

Lord Chief Justice *Eyre.*—What is it?

Mr. *Tooke.*—A copy of a letter from Gerrald and Margarot to the secretary of the London Corresponding Society. It is an extraordinary thing five or six gentlemen choosing to send a delegate, that the treason, if there is any in it, should fall upon those who had no concern in it; and when the delegates of the London Corresponding Society state that the Constitutional Society had abandoned him. Do you know, that between two and three years ago, I quitted London, on account of ill-health and infirmity?—That was the time, I believe, you went to Wimbledon.

You remember I had a serious infirmity?—Yes.

That infirmity put me out of a state to bear arms?—Yes.

Mr. *Tooke.*—My lords, I am ashamed to have taken up so much time in this examination, but I thought it might rather shorten than delay.

Mr. *Daniel Adams* re-examined by Mr. *Attorney General.*

Be so good as look at the book—Upon the 11th of April, 1794, you find an entry of Mr. Joyce being in the chair; if you look at the names, you will find that Mr. Tooke, Mr. Kydd, Mr. Thelwall, Mr. Hardy, and Mr. Richter, were present among others?—Yes.

You find there an entry to this effect: Mr. Joyce made the report of the meeting of the delegates of the London Corresponding Society, for the purpose of this society co-operating with the London Corresponding Society, and that they had come to the following resolutions; then there are three resolutions entered: "That it appears to this committee very desirable that a general meeting, or convention, of the Friends of Liberty, should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people." Then there is a second resolution. I think you told us, upon Mr. Tooke's examination, that his name was proposed to be on the committee of correspondence, in his absence?—I do not know that I said that.

Mr. *Tooke.*—He said, that the former committee of correspondence should be a committee of co-operation.

Mr. *Attorney General.*—You say you copied into this book the resolutions, first being taken down upon loose paper?—Yes.

The resolutions, when taken down upon loose paper, were not always in your own hand writing?—Not always.

You can, perhaps, inform me, then, whose hand-writing the part of the resolution, I have now read to you, is; and whether any, and what part of the rough draft of this resolution is the hand-writing of Mr. Tooke?

Mr. *Tooke.*—A good deal of it is, I dare say.

Mr. *Attorney General.*—Do you know whose hand-writing this paper is? [showing it to the witness].—I do not.

That is, however, a rough draft of a resolution of the 11th of April, 1794?—I believe it to be so.

And you believe the resolution in that book to have been entered from that draft?—I believe it was.

Mr. *Tooke.*—I do not believe there is a letter of mine in that paper.

Mr. *Attorney General.*—You have told us, with respect to Mr. Sinclair, that he had been sent to the Scotch Convention, at a very private meeting?—No; I did not mention that; at an extraordinary general meeting.

Look at this letter [showing it to the witness], and tell me whether it is signed by any person whose hand you know?—That is signed by Mr. Tooke.

Mr. *Tooke.*—The whole is written by me.

Mr. *Attorney General.*—I beg to lay the evidence before the Court in my own way. You remember the meeting, perhaps, on the 25th of January, 1794?—I do.

You see an entry there, "That it be resolved that the most excellent address of the London Corresponding Society, be inserted in the books of this society?"—Yes.

Was that copied into the book from a rough minute?—I dare say it was.

Look at this paper [showing it to the witness], and tell me whose hand-writing that is, if you know it?—It is Mr. Tooke's hand-writing.

You know that the London Corresponding Society had had a meeting about four days before that?—I do not know it; for I never attended any of their meetings. I dare say they might have had.

Turn to the 17th of January, 1794; do you find in the book an entry "That law ceases to be an object of obedience whenever it becomes an instrument of oppression?"—Yes.

And several other resolutions that have been referred to?—Yes.

Who appears to have been in the chair that night?—It appears that Mr. Tooke was in the chair.

Mr. *Tooke.*—Do you mean to say that I was in the chair when these resolutions passed?—No; I do not mean to say that.

Mr. *Attorney General.*—That is breaking in upon my examination.

Mr. *Tooke.*—It was wrong; I ought not to have done it.

Mr. *Attorney General.*—Was Mr. Bonney present?—His name is here.

Was Mr. Martin present?—Mr. Martin's name is here.

Was Mr. Kydd present?—His name is here.

Will you be so good as to inform me whether this is not the rough draft of the minute of that resolution, and whether the fact appear upon it, that these resolutions were come to, and the time at which Mr. Tooke left the chair, is directly stated; and tell me whose hand-writing that is?—I should suppose, most probably, that I entered it from this.

Whose hand-writing are those minutes?—The greater part of them is mine.

Whose hand-writing is that in the beginning?—I do not know.

Do you mean to say that you cannot tell me whose hand writing that is?—I do: sometimes I was in the room, and sometimes not; I was called out frequently by different people, then they laid hold of the paper, and wrote this.

Then, upon your oath, you cannot speak, as to your belief, whose hand-writing that is; speaking of your belief as to the hand-writing of a person you have seen write?—I could not swear to the hand-writing.

Can you swear to your belief of it, as being the hand-writing of a person whom you have seen write, according to your belief?—I think it is possible I may recollect; but I could not swear to it upon my oath; I cannot swear to the hand-writing.

You cannot speak to it, to your belief?—I do not know how far I can speak to my belief; I could not speak to it, so as to make it satisfactory to my own mind, as to the hand.

Whose do you believe it to be?—It may be Mr. Bonney's.

Do you believe it to be his?—I cannot swear I do; because I do not know his hand.

Do you believe it to be his?—I do.

Have you ever seen him write?—I have seen his writing a great many times, but I do not know that I ever saw him write.

Look at the entry of the 23rd of March, 1791; you will find there a resolution of thanks to Mr. Thomas Paine, for his most masterly book intituled the Rights of Man?—Yes.

Look forward; you will find it is resolved that the foregoing resolutions, and all future proceedings of this society, be regularly transmitted by the secretary, to all our corresponding constitutional societies in England, Scotland, and France?—Yes.

Then—"Resolved, that the above resolutions be published in the papers?"—Yes.

Were these resolutions come to, as you have entered them?—They certainly were.

Were they published in the papers?—I suppose they were; if they were not, it was those papers that did not choose to insert them.

I will ask you whether Mr. Tooke appears (in the manner that has before been mentioned) to be present at that meeting on the 23d of March, 1791?—He appears in the book.

Look forward to the 1st of April, 1791; does Mr. Tooke appear by the book to have been present then?—He does.

Do you find a resolution there, "tha the resolutions of this society recommending Paine's book, 'the Rights of Man,' and published in several of the papers, be republished in the following, viz. General Evening, Morning Post, World, English Chronicle, Sherbourn, Leeds, York, Bristol, Nottingham, and Birmingham papers:" Did the society come to that resolution?—Certainly they did; I suppose so, or I should not have entered it there.

Have you any reason that enables you to state one way or other, whether these resolutions were actually printed in the several papers which I have now mentioned?—I cannot take

upon me to say that they were; very likely they might; the London ones—but I cannot possibly take upon me to say.

Turn to the 9th of March, 1792, you will find a gentleman there proposed of the name of Joel Barlow?—Yes.

Whom was he proposed and seconded by, as appears by the book?—"Joel Barlow, esq. author of Advice to the Privileged Orders, proposed as an honorary member by Mr. Tooke, and seconded by Mr. Sharpe."

Go to the 16th of March, 1792, you will find this resolution: "Ordered, that the secretary return to the chairman of the society at Manchester, the thanks of this society for his communication; at the same time assuring him that this society does heartily concur in the above resolution," which is a resolution of the Manchester Constitutional Society signed Thomas Walker and Samuel Jackson; and, among other things, is this; "That this society congratulate their country at large on the influence which Mr. Paine's publications appear to have had in procuring the repeal of some oppressive taxes in the present session of parliament." You find that, do not you?—Yes.

Then you find the order that the secretary should return thanks to the chairman?—Yes.

Whose hand-writing is this paper [showing it to the witness], and whether that is the rough draft of the resolutions which you copied?

Mr. *Tooke.*—It is my hand-writing.

Mr. *Adams.*—This is the rough draft, and it is Mr. Tooke's hand-writing.

Who was in the chair at that meeting?—Mr. Tooke.

Look at the meeting of the 23d of March, 1792; you observe there that the Sheffield resolution is entered: "We declare that we have derived more true knowledge from the two works of Mr. Thomas Paine, intituled Rights of Man, part the first and second, than from any other author on the subject. The practice, as well as the principle of government, is laid down, in those works in a manner so clear and irresistibly convincing, that this society do hereby resolve to give their thanks to Mr. Paine for his two said publications, Rights of Man, parts 1st and 2d." You observe, at the bottom, the secretary returns the thanks of the society, and there is an entry of a resolution: whose hand-writing is that?

Mr. *Tooke.*—That is my hand-writing.

Mr. *Adams.*—It is Mr. Tooke's hand-writing.

Mr. *Attorney General.*—This is a draft of a letter sent as an answer to the Sheffield Society, informing them they would incorporate their twelve associated members.

Mr. *William Woodfall* (called again).

Mr. *Attorney General.*—Whose hand-writing do you believe that to be?—I believe the main body of it to be Mr. Tooke's; it is marked, I suppose, to be identified—A draft of a letter, which purports, upon the face of it, to be a communication to be made to the Sheffield Society, that associated with them twelve of their members.

Mr. *Attorney General.*—Turn now, Mr. Adams, to the meeting on the 20th of April, 1792; you find a communication there from the Three Tuns tavern, in Southwark?—Yes; there is.

You find a resolution that the thanks of the society be given to the Southwark Society for the following communication, and a resolution that it should be published in the papers?—Yes.

Does your recollection serve you whether it was published in the papers?—It does not; but probably it was.

Go to the 27th of April, 1792; does Mr. Tooke appear, by the book, to have been present that day?—Yes.

Do you find a letter, addressed to the Friends of the People, entered?—Yes.

Who was in the chair that day?—It appears that major Cartwright was.

Was that letter sent?—Yes; it was.

Look at the 4th of May, 1792; does Mr. Tooke appear to have been present then?—He was.

Have you an entry of reading a letter from the Revolution Society at Norwich?—Yes.

Is the letter entered in the book?—Yes.

Do you find this passage entered: "The Rights of Man by Thomas Paine, and the Advice to the Privileged Orders, by Joel Barlow, have also been read with attention, and circulated with avidity; they point out, with clearness, most of the abuses which have accumulated under the British government; they attack with energy most of the prejudices which have tended to perpetuate them."?—Yes.

Was Mr. Thomas Paine one of the members of your Constitutional Society?—He was, I believe, an honorary member.

Did he attend pretty frequently, while in England?—The books will better tell you than I can—I rather think he did attend, but not very often, I believe; but the books will better ascertain that.

Do you find a resolution upon that 4th of May, 1792, to this effect:—"This society receives the above communications with the most heart-felt satisfaction, and desire earnestly to concur and to co-operate with those societies," that is, the Norwich Societies, "in their laudable object, and that the secretary inform them of the same, and of the unanimous election of their twelve members"?—Yes, nearly to those words.

Look thoroughly at this, and inform me, whether it is the original letter which was read in the society, upon that night?—It has every appearance of it—I cannot say that that is absolutely the letter.

Look at the twelve names at the bottom, and see if there is any hand-writing there that you happen to know?—Not one.

You do not know any of the hand-writing that is there?

Mr. *Tooke.*—That is my hand-writing.

Mr. *Attorney General.*—Look at the same 4th of May, 1792, and tell me, if Mr. Martin was proposed to be an honorary member by any body, and by whom?—It appears here that Mr. Martin was proposed an honorary member by Mr. Tooke, and seconded by Mr. Frost.

Do you remember any letter of thanks coming from Mr. Martin to the society?—I rather think I do.

Look at that paper, and tell me, if you know any body's hand-writing that is in it?—There is some writing different from the rest, but I cannot take upon me to say whose it is.

Mr. *Tooke.*—There is an interlineation, and that is mine.

Mr. *Attorney General.*—You will be so good as look at the meeting the 11th of May, 1792. Was Mr. Tooke present at that meeting, as appears by the book?—Yes.

You there have an entry, that there should be a communication from this society with the Friends of the Constitution, at Paris, known by the name of the Jacobins?—Yes.

And an address from the society of the Friends of the Constitution, at Paris, called the Jacobins?—Yes.

Do you remember the resolution passing, that you see in that book, "that the above address be signed by the chairman; and, that Mr. John Horne Tooke be requested to transmit it, with all possible dispatch, to Mr. Watt, at Paris"?—There is such a resolution.

You would not have entered it, unless that had been resolved upon; should you?—No.

Do you find another resolution, that the address be read a second time, at the next meeting; for publication?—Yes.

Look at the meeting on the 12th of May, 1792. Is there any meeting mentioned in that book, in which you have inserted a letter from lord John Russell?*—I do not remember that there is any such letter; can you refer to the date?

The 12th of May, 1792?—I do not remember ever hearing of it.

Go to the 18th of May, 1792. Was Mr. Tooke then present, as far as appears by the book?—Yes.

Do you find the address to the Jacobins ordered to be published?—It does not appear here; It may have been in the rough minutes, and forgot to be entered; I do not see it at least at present.

If you look on, you will find a letter from Thomas Paine, stating, that he is about to publish a cheap edition of his two parts of the Rights of Man; and then, that the society take into consideration the contents of that letter—Resolved to give him thanks, and to support him. Do you recollect, whether that resolution passed or not?—Yes.

Do you observe a resolution, "that a committee be appointed to inquire into the rumour of this prosecution of Paine, and to report to the society at the next meeting"?—Yes.

Are the committee named?—Yes.

What are their names?—Mr. Sharpe, Mr. Tuffin, Mr. Tooke, Mr. Frost, Lord Daer, Mr. Hull, and Mr. Fitzgerald.

Do you see a resolution there, that a copy of Paine's letter, together with these resolutions, should be transmitted to all the associated societies in Town and Country?—Yes.

And that 3,000 copies of the above letter and resolutions shall be printed for the use of the society?—Yes.

Were they printed?—I cannot take upon me to say, whether they were or not; the account-book will tell, I dare say.

If you look at that paper, you will be able to tell us, from your book, whether they were printed or not; and the address to the Jacobins to be paid for by the society?—This appears to be published in the papers, but not otherwise.

Go on to the 25th of May, 1792. Do you find there a resolution, that 6,000 more copies of the bills, directed at the last meeting, should be printed; that a hundred be sent to each of the twelve associated members of the Sheffield Constitutional Societies, a hundred to each of the twelve associated members of the Norwich Constitutional Society, two hundred to each of the other Constitutional Societies, two hundred to Derby, and two hundred to the Society at Belpar?—It is here.

Did that resolution pass?—Yes.

Was Mr. Tooke present, as far as appears by the book, at the time that passed?—He appears to be present, as far as the book shows; his name is in the book.

See whether there is an entry of a letter on the same evening, dated the 24th of May, 1792, signed Thomas Hardy?—Here it is in the book, the first of June.

Did you ever see this paper before?—I dare say I have seen it.

Whose hand-writing do you believe it to be?—I do not know, upon my oath.

Whose hand-writing do you believe it to be?—I have not the smallest idea.

Not even to your belief?—No, not even to my belief.

At the meeting on the first of June, 1792, does Mr. Tooke appear to be present?—Yes.

You find an entry there, "that the secretary reported, that he had sent twelve hundred of the printed bills ordered at the last meeting, to the Sheffield Constitutional Society; twelve hundred to the Norwich Constitutional Society; to the Southwark Constitutional Society two hundred; to the London Corresponding Society two hundred; to a person to be forwarded to Derby two hundred; to the Constitutional Whigs two hun-

* Afterwards sixth duke of Bedford; in 1806 he was appointed Lord Lieutenant of Ireland.

dred; to the Society at Belpar two hundred." Did you send them?—I have no doubt of it, from reporting it.

You find also a resolution—"to send to Mr. Joyce, to be forwarded to Birmingham, six hundred; to the Society at Aldgate two hundred; to Manchester twelve hundred; to Liverpool two hundred; to Cambridge five hundred; and four hundred to be distributed among the societies in the neighbourhood of Glasgow." Do you remember that resolution being come to, to distribute these copies of the cheap edition of the Rights of Man?—I have no doubt but it was.

You find a letter of the London Corresponding Society, of the same date, signed Margarot and Hardy?—Yes.

Do you find an order there, in these words: "That the said letter be published in such newspapers as will receive the advertisements of this society"?—Yes.

Go to the meeting of the 15th of June; who was in the chair?—Mr. Tooke was in the chair.

See whether there is a minute, that there was read a letter from the London Corresponding Society, stating, that they had opened a subscription for the defence of Paine, and that they wished that six of their members might be associated with this society?—Yes.

You will be able to tell me, perhaps, whether this [showing it to the witness] is not the letter that came, and whether this is the signature of Thomas Hardy, or of any body else, and whom? and look at the body of the letter, and tell me, if you know the hand-writing; and whether the body of the letter is different from the other parts of it?—I never saw Hardy write in my life, as I recollect; it is very different from what I have seen offered to me as his hand-writing in general.

Then you do not know, either whose hand-writing the body of it is, or whose hand-writing the interlineation is?

Mr. *Tooke.*—The interlineation of the words "and that knowledge," is mine.

Mr. *Attorney General.*—You find an order, stating, "that the secretary was to inform the secretary of the London Corresponding Society, that the society received their proposal with pleasure, and were willing to admit such six of their members whom they shall nominate, to be associated members of this society." Do you recollect that passage?—Yes.

Do you recollect the letter of the London Corresponding Society, and the two last resolutions, being ordered to be published in the newspapers?—It is mentioned here.

See if there is a resolution there, "That twelve thousand copies of Mr. Paine's letter, dated the 6th of June, 1792, to Mr. Secretary Dundas, be printed by the society, for the purpose of being transmitted to our correspondents throughout Great Britain, and that a committee be appointed to direct the same"?—There is such a letter.

Does it appear who are the committee?—Yes; Mr. Tooke, Mr. Sturch, Mr. Chatfield, rev. Mr. Joyce, Mr. Symonds, and Mr. Frost.

Inform me, if you know whose hand-writing that minute is, that ordered the twelve thousand copies to be published?

Mr. *Tooke.*—That is mine.

Mr. *Adams.*—It is Mr. Tooke's hand-writing.

Go to the 22d of June, 1792; was Mr. Tooke present then, as far as appears by the book?—He was.

Who was in the chair that day?—Mr. Frost.

Have you an entry, "A member reported, that an information was filed against Mr. Paine, for his publication of the Rights of Man"?—Yes there is.

And that a subscription entered into for him, be entered into a separate part of the book, and that subscriptions should be received by Mr. Bonney, his solicitor?—It runs thus—"Ordered that the subscription entered into for the benefit of Mr. Thomas Paine, be entered in a separate part of the book, and kept open for the members of this society."

Look to the 29th of June, 1792; you find there, that the committee who had been appointed, reported a plan of distribution of twelve thousand copies of Mr. Paine's letter to Mr. Dundas, which was adopted. Were those twelve thousand copies distributed according to that plan?—I do not know. I had not the distributing of them I believe.

You paid for printing the letter, and for the address to the Jacobins I believe?—Yes, it appears so here.

Turn to the meeting of the 13th of July, 1792, you find it is stated "that six gentlemen, recommended by the London Corresponding Society, were elected." Were they elected upon that day according to your recollection?—Yes, I believe they were.

Look to the meeting of the 5th of October, 1792; was Mr. Tooke present upon that day, according to the best of your recollection?—His name is here.

Do you find an entry—"Read a letter from the Constitutional Whigs Independent, and Friends of the People, accompanied with fifty copies of a letter transmitted to them from the Friends of Freedom at Cherbourg"?—Yes.

Do you remember that letter being read; it must, I suppose, have been read, as it is entered?—If it is entered, it must have been read.

Go to the 12th of October, 1792; do you find there—"Read Mr. Barlow's letter to the National Convention of France"?—Yes.

Was Mr. Tooke present at this meeting?—His name is here.

Was Mr. Martin present, as far as appears by the book?—Yes.

Mr. Richter?—Yes.

Mr. Joyce?—Yes.

Do you remember receiving a letter from Mr. Barlow with that book, called his letter to the National Convention of France?—I dare say so, because the letter is entered.

Do you find a resolution there—" that Mr. Sturch be requested to draw up an answer to the letter of Mr. Barlow, expressing how much pride this society feel at having elected him an honorary member"?—Yes.

Did that resolution pass?—Yes.

Do you remember receiving an address from the National Convention to your society?—Yes.

Was it read and entered?—Yes.

Look to the meeting of the 19th of October, 1792, and inform me who was in the chair?—Mr. Tooke.

Does it appear at that meeting that an answer to Mr. Joel Barlow was produced and approved, and ordered to be published with this letter?—Yes, it appears so.

Does it appear from your book, and is it fact, that a committee was appointed that night to confer with the delegates of the Corresponding Society upon the address to the National Convention of France?—Yes.

Who formed that committee; was Mr. Tooke one of them?—Yes.

Mr. *Tooke*.—Do you speak from your own knowledge, or from your book?

Mr. *Adams*.—The book I always speak from.

Mr. *Attorney General*.—Look to the meeting of the 26th of October, 1792; you find that you read a report of the committee appointed at the last meeting; it is entered by the book that you did so.—Yes.

Is the fact that you did so?—No doubt.

Do you find a resolution—" That it is the opinion of that committee, that the purpose of the address drawn up by the London Corresponding Society would be better answered by separate addresses than by one joint address;" look at the second of November, see if it is there?—I do not see it.

Does Mr. Tooke appear to have been present upon the 26th of October?—Yes.

Go to the 9th of November, 1792; does Mr. Tooke appear to have been present then?—Yes.

There is entered then an address from the Society for Constitutional Information to the National Convention in France?—There is.

Was that address read and approved of at that meeting, according to your recollection?—I believe it was.

Do you find a resolution there—" That Barlow and Frost be deputed by the society to present the address of the society at the bar of the National Convention in France?—Yes.

Did that resolution pass?—Yes.

Do you find that Barlow and Frost having accepted the above deputation, the society thank them for it?—Yes; nearly in those words.

Did that pass?—Yes.

Do you find an entry there—" That a subscription be opened for assisting the efforts of France in the cause of " freedom"?—Yes.

Was such a subscription opened in the society?—There never was but one that I recollect, and that was afterwards.

Go to the meeting of the 14th of December, 1792; does Mr. Tooke appear to have been present at that meeting?—Yes.

Mr. Bonney?—Yes.

Mr. Martin?—Yes.

Mr. Kydd?—Yes.

Mr. Richter?—I do not see his name.

Mr. Holcroft?—Yes.

Mr. Joyce?—Mr. Joyce's name, I believe, does not appear.

You will find there: " Read a printed address from Manchester."—Yes.

Do you find on the same day: " Resolved that one hundred thousand copies of the same be printed by this society, and distributed to their correspondents in Great Britain and Ireland?"—Yes.

Was that resolution come to?—It was passed.

Can you tell me in whose hand-writing the resolution is, if I show it you?—I do not know, sir, till I see it.

If you look forward, you will see: " Read a letter from the society of Friends of Liberty and Equality, sitting at Laon, capital of the department De l'Aisné, to the patriotic society of London, named the Society for Constitutional Information."—Yes.

Was that letter read?—I do not think it was read, it was in French; if I recollect some gentleman read part of it, and it was put aside.

How came that entry to be made?—I do not know why it was made; it was mere matter of course; I believe it was begun to be read, but they did not think it worth while to go through it, I believe, as far as I recollect.

Go on, you will find a letter from the society of the Friends of Liberty and Equality at Macon, that was ordered to be entered on the minutes of the society?—Yes; but that was never read.

There is a blank left in the book for it?—Yes.

On the next meeting, the 21st of December, you will find a resolution that some gentlemen should be a committee for foreign correspondence, Mr. Tooke and others?—Yes.

Was Mr. Tooke present when that resolution was come to on the 21st of December, 1792?—Yes, as far as appears by the book; I cannot take upon me to say that he was.

Who are the persons that were named to be the committee of foreign correspondence?—Mr. Tooke, Mr. Moore, Mr. Watt, Mr. Gerrald, Mr. Kydd, Mr. Reader, Mr. Fitzgerald, Mr. Tuffin, and lord Sempill.

Look back to the entry of the 4th of May, 1792, and tell me whom Mr. Gerrald was proposed and seconded by as a member of this

society?—Proposed by Mr. Tooke, and seconded by Mr. Frost.

Go to the meeting of the 18th of January, 1793; does Mr. Tooke appear to have been present on that day?—He does on the book.

Do you find a resolution there about citizen St. André?—Yes.

Did that resolution pass?—Yes.

I understand your society to have been held about once a week?—It was.

Do you find Mr. Tooke present on the 25th of January, as far as appears upon the books?—Yes.

Was Mr. Martin there that day?—Yes.

Was Mr. Wardle there that day?—Yes.

Mr. Holcroft?—Yes.

Mr. Bonney?—Yes.

Do you find two resolutions there about citizen Barrère, and citizen Roland?—Yes.

Were those resolutions come to at that meeting?—Yes.

Go to the first of February, 1793; was Mr. Tooke present at that meeting, as far as appears by the book?—Yes.

Do you find a resolution there about reading a circular letter from the Sheffield Society for Constitutional Information?—Yes.

Did that pass?—Yes.

Upon the 15th of February, 1793,—was Mr. Tooke present that day?—By the books he was.

Do you remember the resolution about the speeches of St. André and Barrère?—Yes.

At the meeting on the 15th, there was a letter from the Society for Constitutional Information at Birmingham read, in which they say, "our society request the favour of your admitting the following twelve persons whose names are subscribed?—Yes.

Was that letter read?—No doubt it was, by its being entered.

You do not know the hand-writing of the original?—I do not, indeed.

Look at the meeting on the 15th of March, 1793; and was Mr. Tooke present then?—Yes.

Do you find a resolution in the book: "That the thanks of the society should be given to Joel Barlow, and John Frost, for their conduct in the presentation of the Address of this Society to the National Convention of France; and that Mr. Frost be assured that our regard for him is not lessened, but increased by the prosecutions and persecutions which his faithful, and due discharge of that commission may bring upon him?"—It is entered here.

Did that resolution pass?—Yes.

Now for a moment just look back to the 18th of May, 1792, and tell me if you find Mr. Charles Sinclair elected a member of the society, and who proposed and seconded him?—He was proposed by Mr. Tooke, and seconded by Mr. Frost.

Now go to the 12th of April, 1793, you will find an entry there, "Read an answer directed to be prepared to the letter received from the Political Societies in Norwich." And a resolution that the answer be sent by the secretary to the secretaries of the said societies. Was that answer sent? was that letter read?—Yes.

Did you send the answer agreed to be sent on that day?—Most likely I did.

Was Mr. Tooke present then?—He appears upon the book.

Was a gentleman of the name of Vaughan present that day?—It appears here that he was; but why he is put down I do not know, for he is not a member of the society.

Go on to the 28th of June, 1793; was Mr. Bonney present that day?—It appears so.

Mr. Martin?—Yes.

Mr. Joyce?—Yes.

Was Mr. Yorke present?—Yes.

Look back to the 21st of June, and tell me if Mr. Tooke, and Mr. Yorke, were both present then, as far as appears by the book?—Yes; as far as appears by the book.

Should you have put them down if they had not been present some part of the time?—No; if they had not been present some part.

Look to the 25th of October, 1793; does Mr. Tooke appear to have been present on that day?—Yes.

Do you observe an entry, "Mr. Sinclair read a letter, with an address from Mr. Skirving, secretary to the Convention of the Friends of the People in Scotland, to the secretary of the London Corresponding Society"?—Yes.

Was that letter read?—Yes; I suppose so by the entry.

You find a resolution about an extraordinary general meeting, did that also pass, according to your general belief?—Yes.

Proceed to the 6th of December, 1793; was Mr. Tooke present upon that day, as far as appears upon the book?—Yes.

Is there a resolution on that day: "That a General Meeting of the society be called for the second Friday in January next, for the purpose of considering the important letters received from the delegate, Mr. Sinclair"?—Yes.

Is there a resolution: "That a committee should be appointed to correspond with their delegate, Mr. Sinclair"?—Yes.

Were those resolutions come to?—Yes.

You were present upon the 28th of March, 1794?—Yes.

Was Mr. Tooke present, as far as appears, on that day?—Yes.

Mr. Bonney?—Yes.

Mr. Joyce?—Yes.

Mr. Kydd?—Yes.

Do you remember the resolution to enter a letter signed Thomas Hardy, upon the books of the society, beginning "Citizen"?—Yes, it appears here.

Is it entered?—Yes.

Were you present at a meeting of the 4th of April, 1794?—Yes.

Was Mr. Tooke present then?—He appears in the book.

Mr. Bonney?—Yes.

Mr. Joyce?—Yes.

Mr. Hardy?—Yes.

Mr. Kydd?—Yes.

Mr. Richter?—Yes.

Did the resolutions pass that are entered upon the book, as upon that day?—I should have no doubt of it, sir, as far as I know from the book; I do not recollect.

The 9th of May, 1794; was Mr. Tooke present then?—It appears so.

Do you see an entry—"Read a pamphlet containing certain proceedings of the London Corresponding Society, and of this Society. Resolved, that two thousand of the same be printed by this Society"?—Yes.

Did that pass?—Yes; I suppose so.

Mr. *Daniel Adams* again cross-examined by Mr. *Tooke*.

I have but one or two questions to ask you. On the 24th of January, 1794 there is an order "That the address of the London Corresponding Society should be entered in the books of the society." Was the address ever entered?—Not the address of the London Corresponding Society; I do not know that it was ever ordered—A motion was made, that it be resolved, that the most excellent address of the London Corresponding Society, be inserted in the books of this society.

It it inserted any where?—It certainly was not.

You have been asked, whether on the first of April, 1791, the society did come to that resolution; to which you answer, as appears by the books, yes.—What did you understand when you were asked, whether the society came to that resolution?—had you any determinate notion of the persons meant by the word *Society*? when the attorney-general asked you, whether the society did a particular thing, and you have answered, yes, because you find it in the books; could you, if asked, explain who were the individuals meant by the word *Society*?—I could not.

Then at all times when you answered, that the society did such a thing, all that you mean to say was, that some persons, but you do not know who, did so?—Yes; certainly.

There is a great deal of intelligence gained by this.—Then you have been asked many questions about the names of those who proposed certain members in the society—did you, or did you not know, that in the year 1790, I was a candidate to represent the city of Westminster in parliament* ?—Yes.

Do you not suppose, that in consequence of that, many persons might apply to me to be proposed as members of that society?—Very likely, but I do not know.

* As to this occurrence, see Memoirs of the life of John Horne Tooke, by Alexander Stephens, esq. Vol. 2, p. 83.

You have been asked, whether Mr. Vaughan was present at a certain meeting of the society, you said he was not a member; but it was said he was a visitor; did the society admit of visitors?—No.

He often dined, I suppose, at the dinner club, as many other gentlemen did?—Yes; he did.

You were just now asked, whether I did not appear to have been present, on the 25th of October, 1793, when a resolution was passed relative to the delegates—you answered, that it appeared by the books I was—but you forgot, you before declared, that though I appeared by the books to be present, you knew I was not present, at that time?—You certainly were not present.

You said circumstances led you to know that I was not present, at that time?—Yes.

Mr. *Attorney General*—Do you mean to say Mr. Tooke was not present at any part of that evening?—No; I do not mean to say that.

Lord Chief Justice *Eyre*.—Gentlemen, it seems the purpose of this long examination has been only to show, that those articles which are entered in this book, were real transactions of those people who called themselves the Society for Constitutional Information, consisting sometimes of one set of people and sometimes of another: they have not read them to you for the purpose of your marking the contents of them as yet; but in order to entitle them to read them, it was necessary to go into this examination.

[The following entries were read from the books of the Constitutional Society]

"At a Meeting of the Society for Constitutional Information, held at the Secretary's house, Tooke's-court, Chancery-lane, Friday, 23d of March, 1791,

"PRESENT,

"Dr. Edwards in the chair.

"Mr. Cooper, Mr. H. Tooke, Mr. Cooper (Manchester) Mr. Sharpe, Mr. B. Hollis, Mr. J. Adams, Mr. Favell, Mr. Tuffin, Mr. Frost,

"Resolved, That the thanks of this society be given to Mr. Thomas Paine * for his most

* "This once celebrated writer, was for some time a frequent guest at Wimbleton; but never a favourite there. Mr. Tooke was accustomed to sneer both at his poetry and prose. Once, in my company, the philologist repeated a distich, replete with the *bathos*, which I am exceedingly sorry to have forgotten, as it had been recited to him by the author, who deemed it his masterpiece,

"His principles never accorded with those of Mr. Tooke; for the latter possessed high notions of the aristocracy of learning, and conceived but a low opinion of those whom he was accustomed to denominate ignorant men; far better calculated to pull down than

masterly book, intituled 'The Rights of Man,' in which not only the malevolent sophistries of hireling scribblers are detected and exposed to merited ridicule, but many of the most important and beneficial political truths are stated in a manner so irresistibly convincing, as to promise the acceleration of that not very distant period, when usurping borough-sellers, and profligate borough-buyers, shall be deprived of what they impudently dare to call their property—the choice of the representatives of the people.

"The Constitutional Society cannot help expressing their satisfaction that so valuable a publication has proceeded from a member of that society; and they sincerely hope that the people of England will give that attention to the subjects discussed in Mr. Paine's treatise, which their manifest importance so justly deserve."

"Resolved, That the foregoing resolutions, and all future proceedings of this society, be regularly transmitted, by the secretary, to all our Corresponding Constitutional Societies in England, Scotland, and France."

"Resolved, That the above resolutions be published in the papers."

"Resolved, That the secretary be desired to transmit the resolutions to Mr. Paine."

"At a meeting of the society, held Friday' April 1st, 1791, at the Secretary's house, Tooke's-court, Chancery-lane.

"PRESENT,

"Richard Sharpe, esq. in the chair.

"Count Zenobio, Mr. Favell, Mr. B. Cooper, Mr. J. Adams, Mr. Tooke, Mr. Cooper, (Manchester) Mr. Frost, Dr. Edwards, Mr. Brand Hollis.

"Resolved, That the resolutions of this society, recommending Mr. Paine's book, 'The Rights of Man,' and published in several of the papers, be re-published in the following: General Evening, Morning Post, World, English Chronicle, Sherborne, Leeds, York, Bristol, Nottingham, and Birmingham.

Mr. *Thomas Chapman* sworn—Examined by Mr. *Garrow*.

Were you acquainted with Mr. Thomas Paine, the author of the Rights of Man?—I was.

Look at this book (showing it to the witness) and tell me whether you printed or published that work for Mr. Paine?—I printed it for Mr. Paine.

It is the first part of the Rights of Man?—Yes.

Had you in the progress of publication, any communications with the author upon the subject?—I had.

[The extracts from the first part of the Rights of Man, read.]

[*Vide* Hardy's Trial *antè*, Vol. 24, p. 497.]

Mr. *Garrow*.—Mr. Adams is not here, we will, if your lordship pleases, read an entry *de bene esse*, from the books of the Constitutional Society of the 22nd of July, 1791.

Mr. *Tooke*.—My lord, there is not a word they have proved that I am not ready to admit against myself; it will save a great deal of time, if they will lay before me that which they have still to bring, because I perceive their conduct is honourable. I was afraid, when I came into this court, that there was perjury to be brought against me—I have been suspected to be a traitor, but I see nothing but what is honourable: let them show me the paper, and I will admit every thing.

Lord Chief Justice *Eyre*.—There is no objection to reading that extract, *de bene esse*, till Adams comes. I have repeatedly said, that I will not bind down the prisoner by any admissions.

Mr. *Tooke*.—I beg pardon—I say it would be possible if the jury were not very attentive, by hearing a great many things proved, to make them think that they were things of consequence, because they were proved; I would rather they should take them as admitted, and see what they are; for I am fearful they should believe, that it would be impossible for an attorney and solicitor-general to waste hours and hours in proving those things which I am willing to admit; and that they will really think they have weight, when I know they have not.

Lord Chief Justice *Eyre*.—At present nothing will be read but that which is in proof, and every thing in proof will be read: hitherto those proceedings have not been read, they have only been examined to for the purpose of identifying them, and showing that they were real transactions of the persons who compose this society—what they are, is to be seen when they are read; the question we were upon was, whether it was right or not to read this one paper *de bene esse*, till Mr. Adams comes to prove it; to that extent I see no objection.

[The extract read.]

"At a Meeting held at the Secretary's house, Tooke's-court, Chancery-lane, Friday, 22d of July, 1791:

"PRESENT,

"Mr. Frost in the chair,

"Mr. Jeremiah Batley; Reverend Dr. Towers; Mr. Bonney; Mr. J. Adams; Mr. B. Cooper; Mr. I. L. Batley; Mr. Satchel; Mr. Bush; Mr. Paine; and Doctor Edwards,

"Resolved, That the original and translation of an address, communicated by the reverend Dr. Towers, from the society of Nantes, be entered in the books of this society."

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build up governments?" *Memoirs of John Horne Tooke interspersed with original documents: by Alexander Stephens, esq. of the honourable Society of the Middle Temple.*

"To the Friends of Liberty, assembled together at London on the 14th of July, 1791, to celebrate the French Revolution.

"The Free Citizens from the bank sof the Loire address their testimonies of brotherhood and of good-will to the noble sons of liberty who inhabit the happy shores of the Thames.

"Whilst an impotent band of the factions are actively employed in the heart of France, and the proud nobles are carrying the poison of their calumny into foreign ports; whilst the priests are labouring to rekindle, by their pestilential breath, the extinguished torch of fanaticism; and the first of our functionaries has given to the people the example of disregarding his oath, our wishes and our sentiments lead us towards you, generous strangers, who are engaged in celebrating the French Revolution—a happy presage of the revolution of the world! But why speak we of you as of strangers! you are our friends, and our brethren: those only are strangers to us who desert them, and who excite wars in order to perpetuate their tyrannical dominion, and to rivet the chains of nations. The decrees which have established the French liberty have been like the trumpet sounding the resurrection of the world: at our voice the nations have raised their degraded fronts; tyrants have turned pale upon their thrones; and, such is the probable effect of this great revolution, that in a short time nothing will be remaining of them but the sorrowful and shameful remembrance of their faults, and of their crimes. Let the great ultra Montane Bramah excommunicate us; his impotent thunders will only serve to enkindle the fires which in France consume his effigy. We desire to live in the same communion with all the friends of peace and of liberty; and the oppressors of the people are, in our eyes, the only schismatics. With what inexpressible pleasure have we seen your brave countrymen, our happy precursors in the cause of liberty, who reside in France, enrolling themselves under our standards, and augmenting the number of the members who compose those societies, formed on the pure principles of citizenship, of which you were the first institutors, and which are the unshaken column of our sublime constitution. When a few years are elapsed, we shall see the two first nations of the earth, England and France, united together in a holy league, to avenge the human race of those unpunished outrages which have disgraced it during so many ages.

"Generous Britons, love us, and unite yourselves with us, and the world will be free and happy.

(Signed) "FRANCIS president.
"Nantes, "SAVENEAU, ex-sec.
July 5, 1791. "HUGHES HARDORIN,
"Perpetual secretary,"

"To the Friends of the Constitution comprehending Three Societies."

Mr. *Thomas Chapman* cross-examined by Mr. *Tooke.*

I know you are a very religious man, and that you often read in the Bible, I desire you to tell me whether you have never found in that book, which you venerate so much, expressions that you would not use before your family?—I do not know that there is any portion of scripture that I would not at all times read to my family.

Do you not recollect expressions in that best of all books that you would not choose to read before your wife and daughters, or suffer others to read? I do not repeat them, because I dare swear the bench, the jury, and every man who ever read the Bible, will recollect certain expressions, which, for the sake of decency, he would not choose to use before a family. I do not choose to mention them.—There are portions of scripture which, in the estimation of men, may be considered as indecent, but in my notion there is no part of God's word that has any indecent expression in it.

But you would not choose to read that part to your wife and daughters?—No, I should not appropriate those parts particularly.

Mr. *Tooke.*—You have been called to prove Mr. Paine's books, and out of a great deal, small portions of it have been read; and so you might read certain parts of the Bible——

Lord Chief Justice *Eyre.*—That is not a proper subject to examine the witness to, it is observation upon the evidence, and certainly it is an observation that deserves attention; but it is observation.

Mr. *Tooke.*—I thank your lordship, that is not the sort of indulgence I protested against. If I have done wrong I beg your lordship's pardon.

Lord Chief Justice *Eyre.*—I only wished to set you right, without speaking with any asperity.

Mr. *Tooke.*—I have been but forty years a student, when I shall come to be called to the bar * I hope I shall know better.

John Thompson sworn.—Examined by Mr. *Law.*

Are you a messenger?—I am clerk to the public-office at Whitechapel.

Did you find this paper [showing it to the witness] amongst Mr. Tooke's papers at Wimbledon?—I did.

[It was read.]

"Address and Declaration of a select meeting of the friends of universal peace and liberty. The following address and declaration to our fellow-citizens was agreed on, and ordered to be published:

"Friends and Fellow-citizens;

"At a moment like the present, when wilful misrepresentations are industriously

* See Vol. 20, p. 687, *note.*

spread by the partisans of arbitrary power, and the advocates of passive obedience and court government, we think it incumbent upon us to declare to the world our principles and the motives of our conduct. We rejoice at the glorious event of the French Revolution. If it be asked what is the French Revolution to us? we answer (as has been already answered in another place*) IT IS MUCH to us as men, much to us as Englishmen—as men who rejoice in the freedom of twenty-five millions of our fellow-beings; we rejoice in the prospect which such a magnificent example opens to the world; we congratulate the French nation for having laid the axe to the root of tyranny, and erecting a government on the *sacred hereditary rights of man*—rights which appertain to all, and not to any one more than to another. We know of no human authority superior to that of a whole nation; and we profess and proclaim it as our principle, that every nation has at all times an inherent indefeasible right to constitute and establish such government for itself as best accords with its disposition, interest, and happiness.

"As Englishmen we also rejoice, because we are *immediately* interested in the French Revolution; without inquiring into the justice, on either side, of the reproachful charges of intrigue and ambition which the English and French courts have constantly made on each other; we confine ourselves to this observation, that if the court of France only was in fault, and the numerous wars which have disturbed both countries are chargeable to her alone, *that Court* now exists no longer, and the cause and the consequence must cease together. The French, therefore, by the revolution they have made, have conquered for us as well as for themselves, if it be true that THEIR court only was in fault, and ours never.

"On this state of the case, the French Revolution *immediately* concerns us. We are oppressed with a known national debt, a burthen of taxes, and an expensive administration of government, beyond those of any people in the world; we have also a very numerous poor; and we hold that the moral obligation of providing for old age, helpless infancy, and poverty, is far superior to that of supplying the invented wants of courtly extravagance, ambition, and intrigue. We believe there is no instance to be produced, but in England, of seven millions of inhabitants, which make but little more than one million of families, paying yearly SEVENTEEN MILLIONS of taxes. As it has always been held out by all administrations that the restless ambition of the court of France rendered this expense necessary to us for our own defence, we consequently rejoice, as men deeply interested in the French Revolution, because it affords to us a substantial ground for lessening the enormous load of *our own* burthens and taxes: *that* court, as we have already said, exists no longer, and consequently the same enormous expenses need not continue to us.

"Thus rejoicing, as we sincerely do, both as men and Englishmen, as lovers of universal peace and freedom, and as friends to our own national prosperity and a reduction of our public expenses, we cannot but express our astonishment that any part, or any members of our own government should reprobate the extinction of that *very power* of France, or wish to see it restored, to whose influence they formerly attributed (whilst they appeared to lament) the enormous increase of our own burthens and taxes: what then are they sorry that the pretence for new oppressive taxes, and the occasion for continuing many old taxes, will be at an end? If so, and if it is the policy of courts, and court-government, to prefer enemies to friends, and a system of war to that of peace, as affording more pretences for places, offices, pensions, revenue, and taxation, it is high time for the people of every nation to look with circumspection to their own interests.

"Those who *pay* the expense, and *not* those who *participate* in the emoluments arising from it, are the persons immediately interested in inquiries of this kind; we are a part of that national body on whom this annual expense of seventeen millions falls; and we consider the present opportunity of the French Revolution as a most happy one for lessening the enormous load under which this nation groans; if this be not done, we shall then have reason to conclude that the cry of intrigue and ambition against *other* courts, is no more than the common cant of all courts. We think it also necessary to express our astonishment that a government, desirous of being *called* FREE, should *prefer* connexions with the most despotic and arbitrary powers in Europe; we know of none more deserving this description than those of Turkey and Prussia, and the whole combination of German despots. Separated, as we happily are, by nature from the tumults of the continent, we reprobate all systems and intrigues, which sacrifice (and that too at a great expense) the blessings of our natural situation; such systems cannot have a national origin.

If we are asked what government is? we hold it to be nothing more than a NATIONAL ASSOCIATION; and we hold that to be the best which secures to every man his rights, and promotes the greatest quantity of happiness with the *least expense;* we live to improve, or we live in vain; and therefore we admit of no maxims of government or policy, on the mere score of antiquity, or other men's authority—the *old* whigs or the *new*. We will exercise the reason with which we are endowed, or we possess it unworthily; as reason is given at all times, it is for the purpose of being used at all times.

* Declaration of the Volunteers of Belfast *Orig. Ed.*

" Among the blessings which the French Revolution has produced to that nation, we enumerate the abolition of the feudal system of injustice and tyranny, on the 4th of August, 1789. Beneath the feudal system all Europe has long groaned, and from it England is not yet free. Game laws, borough tenures, and tyrannical monopolies, of numerous kinds, still remain amongst us; but rejoicing, as we sincerely do, in the freedom of others, till we shall happily accomplish our own, we intended to commemorate this period to the universal extirpation of the feudal system, by meeting on the anniversary of that day (the 4th of August), at the Crown and Anchor; from this meeting we were prevented by the interference of *certain unnamed and skulking persons*, with the master of the tavern, who informed us, that, on their representations, he could not receive us *there*. Let those who live by, or countenance feudal oppressions, take the reproach of this ineffectual meanness and cowardice to themselves; they cannot stifle the public declaration of our honest, open, and avowed opinions.

" These are our principles, and these our sentiments; they embrace the interest and happiness of the great body of the nation, of which we are a part. As to riots and tumults, let those answer for them who, by wilful misrepresentation, endeavour to excite and promote them; or who seek to *stun* the sense of the nation, and lose the great cause of public good, in the outrages of a misinformed mob. We take our ground on principles that require no such riotous aid; we have nothing to apprehend from the poor, for we are pleading their cause, and we fear not proud oppression, for we have truth on our side; we say, and we repeat it, that the French Revolution opens to the world an opportunity in which all good citizens must rejoice, that of promoting the general happiness of man; and that it moreover offers to this country, in particular, an opportunity of reducing our enormous, and enormously misapplied taxes.

" These are our objects, and we will pursue them."

[Note. This meeting was understood to have been held on the 20th of August, 1791.]

Mr. *William Woodfall* called again.

Mr. *Law*.—Look at those papers?—The whole of the first paper I believe to be Mr. Tooke's hand-writing; of the second, the interlineations only.

Mr. *Tooke*.—They are both mine. One is my writing, the other is, I believe, my daughter's; the interlineations only. The admission of that paper might easily be taken, for it was long ago published in the newspapers, signed with my name.

Lord Chief Justice *Eyre*.—If any thing should turn upon the date of it, which they have not yet ascertained, the circumstance of its being published in the newspapers at a given time, may be proper to be produced as evidence on your part.

James Thornton sworn.—Examined by Mr. *Bower*.

Are you one of the king's messengers?—I am clerk at the public office in Marlborough-street; I found this paper in Mr. Tooke's house, at Wimbledon.

[The paper was read.]

" Dear Sir;—The Manchester Constitutional Society have requested me to abridge Paine, and to republish my propositions on civil government. Sharpe, I hear, is not in town; Paine is in France; and I do not know of any friend of his but yourself, to whom I can send my proposed abridgment for his opinion; indeed, I am, at any rate, desirous of your reading it; for although two or three friends, to whom I referred it, here, approve of it, I wish you, as a friend of Paine's, and of mine, would be kind enough to take care that Paine's reputation is not mangled by mangling his book. We are going on very well here; our Constitutional Society meets numerously, and with a proper spirit; and every possible exertion is making by the aristocracy against us, as you may see by the protest, and by the necessity we are under of vindicating our resolutions.

" Return me Paine, as soon as you can, that we may get it out; and be kind enough to give me your opinion, whether we ' (the ' Constitutional Society)' should print it ourselves, or undertake to order a certain number of copies, at what price, certainly not to exceed one shilling; whether Jordan would feel himself aggrieved, or Johnson, who offered to print it, if I would abridge it; in short, in what way had we better do it?

" I hope your Address to the Electors of Westminster, and your account of your speech, &c. before the committee, does not stand still. When do you go to France?—Your's, very sincerely, T. Cooper,

" Lever Hall, near Bolton, Lancashire."

Addressed, " John Horne Tooke, esq."

Mr. *Tooke*.—I do not know what papers may have been taken from my house; but are letters written to me to be produced as evidence against me?

Lord Chief Justice *Eyre*.—Being found in your possession, they undoubtedly are producible as evidence; but, as to the effect of them, very much will depend upon the circumstances of the contents of those letters, and whether answers to them can be traced, or whether any thing has been done upon them. A great number of papers may be found in a man's possession which will be, *primâ facie*, evidence against him, but will be open to a variety of explanations; and it is always a very considerable explanation that nothing appears to have been done in consequence of the paper being sent to him. But

all papers found in the possession of a man are, *primâ facie*, evidence against him, if the contents of them have application to the subject under consideration.

Mr. *Tooke*.—The reason of my asking it is, I am very much afraid that, besides treason, I may be charged with blasphemy.

Lord Chief Justice *Eyre*.—You are not tried for that.

Mr. *Tooke*.—It is notorious I do not answer common letters of civility, but I have received and kept many curious letters. I received some letters from a man whose name is *Oliver Verall*, and he endeavoured to prove to me that he was God the Father, Son, and Holy Ghost. (I kept the letters out of curiosity, and it is probable they may be produced against me.) He proved it from the Old Testament; in the first place that he was God the Father, because God is *O Veral*; that is, God over all. He proved he was God the Son, from the New Testament—verily, verily, I am he; that is, *Veral I, Veral I*, I am he. Now, if these letters, written to me, which I, from curiosity have preserved, but upon which I have taken no step, and to which I have given no answer, are produced against me, I do not know what may become of me.

Lord Chief Justice *Eyre*.—If you can treat all the letters that have been found upon you with as much success as you have these letters of your correspondent, you will have no great reason for apprehension, even if that letter should be brought against you.

Mr. *Tooke*.—I have several such letters, that I have kept for their curiosity.

Lord Chief Justice *Eyre*.—At present they cannot come in charge against you.

John Thompson called again.

Mr. *Law*.—Was that letter [showing it to the witness] found by you?—Yes, in Mr. Horne Tooke's house, at Wimbledon.

[It was read.]

" *Manchester, August* 29, 1791.

" Dear Sir;—I thank you for the paper you sent me; I approve much of the letter in it with your signature, and would gladly propagate it, *if I could*, but I cannot.

" Your letter found me at Mr. Walker's, confined by illness, to my bed; and, not being able to apply to the printer myself, I desired Walker to send the paper, with our compliments, and that we requested the letter, signed J. H. T. might be inserted in the next Manchester newspaper; the answer returned was, that it could not be done that week, nor perhaps the next, but he would see about it; yesterday he sent a note, of which the following is a copy:

" When C. Wheeler gave Mr. Walker his reasons for wishing to decline the insertion of ' the Belfast Declaration, he thought they ' would have equally applied to any other ' production of the same nature; this, he ' finds, is not the case, as Mr. Walker has ' sent Mr. Tooke's address, abounding with ' exceptionable remarks for publication, re- ' marks which have a right to subject both ' the writer and the publisher to a prosecu- ' tion; it may be said that government will ' not prosecute for such publications; that ' does not lessen the *folly* of the publisher, ' in running a risk which, it his *duty*, as a ' member of society, to avoid.

' Independent of these reasons, C. Wheeler ' presumes he may have some claim to acting ' from *principle*; and he cannot but declare, ' that he would wish, *in future*, to avoid pub- ' lishing what may hold out improper ideas ' to the public at large, who seldom *think* ' much before they *act*; of this there is a ' recent and melancholy instance.

" ' C. Wheeler is obliged to trouble Mr. ' Walker; and it seems fair, in his own vindi- ' cation; but he cannot help observing, that ' it is with extreme regret he is now, or may ' be at a future time, obliged to recede from ' any service which Mr. Walker may wish ' him to perform together.'

" In Manchester there are two papers, published weekly; one of them most decidedly and virulently aristocratic, the other (C. Wheeler's) generally moderate, and rather in our favour than adverse; but you see that now we are decidedly excluded from that, not only on the occasion of your address, but on every other future political subject. We shall therefore immediately set up a paper among ourselves, which I have formerly mentioned to you, and which we have not hitherto done, because we thought that Wheeler would have no objection, on being paid, to insert what we thought fit.

" Can you lend us any, and what assistance, in point of communications, to such a paper; it will *at first* be gently, but always decidedly democratic, nor pestered with so much presbyterian nonsense.—Can you give us any hints about it; we have already spoken to Sharpe, who has been down here; but Wheeler's answer came after his departure.

" I wrote to you about an intended abridgment of Paine; you sent me no answer of any kind; I wish you had, because I had a formal request from our society here to publish. The preface I sent you with it; if you have—burn.——I am, dear sir, your's sincerely, " Thomas Cooper.

" Direct to me to Lever-hall, near Bolton, Lancashire."

Addressed " J. Horne Tooke, esq. Richmond-buildings, Soho, London."

Mr. *William Woodfall* called again.

Mr. *Law*.—Look at the interlineations on that paper, and say whose hand-writing you believe them to be?—This paper was shown me upon a late occasion, I believe. The interlineations are very few—in the first page the word " incapacitated"—the word " whose;" and, in the second page, the words " and

every," and four lines and a piece are added to it, which, I believe, are Mr. Tooke's hand-writing; the rest of the paper certainly is not Mr. Tooke's hand-writing.

Mr. *John Gurnell* sworn.—Examined by Mr. *Law*.

Look at that paper, which is marked, I believe, with your name?—It is, I seized this in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 373.]

The following Extract from the Book of the Constitutional Society was read:—

"At a Meeting, held on Friday, the 9th of March, 1792, at the Secretary's, Tooke's-court, Chancery-lane.

"PRESENT,

"Richard Sharpe, esq. in the chair,

"Dr. Edwards, Mr. M. Bush, Mr. Favell, Captain Tooke Harwood, Mr. J. Adams, Mr. J. L. Batley, Mr. A. Bush, Mr. Hollis, Mr. Frost, Mr. J. H. Tooke:—

"Joel Barlow, esq.; author of Advice to the Privileged Orders, was proposed as an honorary member by Mr. Tooke, and seconded by Mr. Sharpe.

"James Mackintosh, esq.; author of *Vindiciæ Gallicæ*, was proposed as an honorary member by Mr. Tooke, and seconded by Mr. Sharpe."

Mr. *Thomas Maclean*.—I found this paper in the possession of Mr. Adams.

Lord Chief Justice *Eyre*.—What account has been given of this letter? What does Adams say of it?

Mr. *Bower*.—We have not examined Mr. Adams to it.

Mr. *Erskine*.—You must examine Adams to it, before you can read it.

Mr. *Attorney General*.—It is the letter which includes the resolutions from Sheffield, that have been read, with Mr. Tooke's hand-writing in them.

Lord Chief Justice *Eyre*.—That has not been read yet; there was not that circumstance to introduce it. Do you mean to prove, that any paper, found in Adams's possession, has the hand-writing of the prisoner on it?

Mr. *Attorney General*.—Yes. This is a paper relative to the Constitutional Society at Sheffield, which was found in the hands of the secretary of the Constitutional Society in London, he being also a member of that Constitutional Society.

Mr. *Erskine*.—Adams is not a member of the Constitutional Society.

Mr. *Bower*.—He said he had been secretary for many years.

Mr. *Attorney General*.—It was found in his custody, and it stands precisely upon the same principle as every particle of evidence out of the Constitutional Society, that was admitted on the former trial, after Hardy became an associated member.

Lord Chief Justice *Eyre*.—It certainly does; but it has been thought necessary to-day to call Adams to substantiate the entries which were to be read from the book, and it seems to me to be proper that he should be now called to explain what this is.

Mr. *Attorney General*.—This is a case in which the paper is found in the possession of Mr. Adams—that fact is proved—it has already been proved, that he was secretary to the Society for Constitutional Information—it has already been proved, that Adams was present every week, from 1792, down to May 1794; and it has been proved, with a very few exceptions, that Mr. Tooke was likewise present at every one of those nights; and Adams is the person in whose possession the books of that society were.

Mr. *Erskine*.—If this is to be at all insisted upon, I shall usher myself in to the attention of your lordship, with the same apology that I made before, namely, that my client does consider, very much to his honour, that there are interests of others at stake, as well as his own. I do profess, once more, I conceive it to be totally immaterial to me, and as little to my client, whether this letter is read or no.

Mr. *Attorney General*.—This is not the time to address the jury on the effect of the evidence.

Mr. *Erskine*.—I am speaking to the Court, not looking to the jury, nor aiming at the jury—the interruption, therefore, is irregular.

Mr. *Attorney General*.—I stated the ground upon which I thought this to be evidence; I did not state any opinion of mine as to what I thought to be the effect of it, because in stating the principles upon which I thought it might be evidence, I have no right to address even to the Court what I think will be the effect of that paper in evidence.

Mr. *Erskine*.—It is not very usual to expect that a counsel who is to argue any thing, is just to fall into the idea in the contemplation of the counsel who is to argue on the other side. Certainly I have a right to state why I do take this objection. It is an objection that can at once be cured by calling Adams. I apprehend it is not my fault that I am now upon my legs to argue it, because, if I understand what I am about, this point has been determined by your lordships to-night before. This paper either contains something which is to criminate the prisoner, or the contrary; if it does not, it is not relevant to the cause, and therefore not admissible.

If it be matter relevant to the cause, which it only can be, if it contains criminatory matter against the prisoner, it must be brought home to him; and I once more, therefore, do beg to remind your lordships of the judgment pronounced by all the judges upon the trial of Warren Hastings, which your lordship most undoubtedly did confirm upon what I

had the honour to say before, as far as my argument went; and after I had addressed the Court some time, it turned out that we were at cross purposes in fact, for if the Court had conceived I was asking no more than I was asking, I should not have been permitted to have spoken. I was then denying the admissibility of just the same sort of evidence as that which is now offered.

Then if I am capable of comprehending any thing, we are exactly in the same condition as we were in some hours ago, when I contended that it was necessary, in the first instance, to call Adams for this purpose, to say when he received this paper, whether he had any reason to believe that it was read at any meeting; if read at any meeting, whether it was read at any meeting at which Mr. Tooke's name even appears in the book; if at any meeting where is name appears in the book, whether he has reason to believe that Mr. Tooke was present; for, in the instance, and the most material instance, where that overt-act is charged upon this record, namely, that Mr. Tooke was a member of the committee of co-operation, though his name appears upon the book, upon that occasion Adams has proved in point of fact that he was not present. Then it may happen that either this letter was not read at all where he appears by the book to be present, or if he appears by the book to be present, that he was not actually present.

The attorney-general, however, has said that this letter is somehow connected with some other matters of the Sheffield Society, where Mr. Tooke's name appears; how do we know, till it is read, what it is evidence of? I do not admit what it is about, nor can the attorney-general tell your lordship, *non constat*, that Mr. Tooke had any thing to do with Sheffield. My view in objecting to this is, that your lordship should not hear it stated or read till it is made out by the ordinary rules of law, applicable both to criminal and civil justice, to be connected with the prisoner. I am sorry to take up the time of the Court; I have shown myself exceedingly slow to it, but when my client desires I should do this, though for reasons given before, I do not myelf think it at all of any weight in the cause, I hope the attorney-general will not think we mean to offer any irregular opposition, we only wish to have the fair, ordinary, impartial administration of justice, and I impute the contrary to no man.

Mr. *Gibbs*.—My lord, this letter, the contents of which I know not, is offered in evidence against Mr. Tooke, with a view to affect him with its contents; and the ground upon which it is offered in evidence to your lordship is this—that it is found in the custody of a Mr. Adams, who is the secretary of a society to which it is proved that Mr. Tooke belonged. Now common reason tells one that a third person who is not proved to have seen this letter; who is not proved to have been present when it was received; who is not proved ever to have known that it was in the custody of Adams; common reason and common justice tell one that that third person ought not to be affected with the contents of a paper so found.

Then let us see whether the rules of law do not fall in with that which common reason and common justice require;—how can Mr. Tooke ultimately be affected with this paper? Only by proving that he at least knew the contents of it; at least knew that it was in the possession of Adams. Adams is here, he is the person in whose custody the paper is found, he may be questioned by the counsel for the crown, whether Mr. Tooke did know that this paper was in his possession, and whether Mr. Tooke did know the contents of it—then can any man say that the simple production of this paper, found only in the custody of Mr. Adams, is the best evidence that the nature of this case admits, for the purpose of affecting Mr. Tooke with it? Can Mr. Tooke be affected with this letter by any other means than by showing that being found in the custody of Adams, it was there with the knowledge of Mr. Tooke, and Mr. Tooke either acted upon it, or knew the contents of it? Is the production of the paper, and the proof that it was found in Adams's custody, evidence of that fact? I do not admit that it is any evidence at all, but is it so good evidence as the testimony of Mr. Adams himself, who is now in court, and who may either affirm or deny that proposition which alone can affect Mr. Tooke—the proposition that he did, or not, know that this letter was in his custody.

Now not only the reason and justice of the case, not only the rule of law that requires that where better evidence can be given, worse shall not be received—not only those two rules fall in with what we are contending for, but I apprehend your lordships in the decision you came to in Mr. Hastings's case, have expressly decided this point; I may be misinformed upon that subject, but I understand that the principle which decided in that case was, that where it was meant to affect the accused person with the contents of a paper, that those contents should not be read until it was proved that they did in some respect affect the prisoner.—That I understand to be the question that arose upon the letter from Munny Begum, which was found in Mr. Hastings's own custody. There was not there a Mr. Adams who could be brought forward to say whether the prisoner had, or not, a knowledge of the letter; but there it was decided that until the prosecutor had proved that the letter was brought home to the knowledge of the prisoner, that he had acted upon it, or knew its contents, that it could not be given in evidence, yet that it might be admissible evidence when that was proved. The argument was, we will first read a paper, then we shall affect Mr. Hast-

ings with it afterwards. No, say the judges, you shall not give that in evidence which may have some effect to prejudice the judges, by saying you propose to fix it upon the prisoner afterwards, which possibly you cannot. So here a letter, merely found in the custody of Adams, without proving that Mr. Tooke knew it was in his custody, or the contents of it, we submit is not to be received. We insist here, as counsel for Mr. Tooke, that you must first bring the contents of this letter home to him before you can read it, as the counsel for Mr. Hastings contended that the managers for the Commons must fix Mr. Hastings with knowledge of the contents of the letter from Munny Begum before they could be permitted to read it. Upon that ground--upon the ground I before stated, that it is not (if it be any evidence) the best evidence the nature of the case admits of here, we submit that this letter cannot be received in evidence until Adams is called, and upon his oath brings this letter home to the prisoner.

Mr. *Erskine*.—This letter is not directed to Mr. Adams in the character of secretary of this society, but it is a letter signed by Ashton at Sheffield, and directed only "to Mr. Adams, Tooke's Court, Chancery-lane" —without desiring him to lay it before the society, or even addressing him in the character of secretary.

Lord Chief Justice *Eyre*.—My difficulty arose from the mere circumstance of Mr Adams having been in court, all along having been examined to a great number of other particulars, and consequently being able to give a more satisfactory account of this paper, than laying it before the jury upon the mere evidence of the paper having been found in his possession. Surely the former determination of to-day does not touch this case, because that determination was upon the evidence of the mere finding of these books upon a Mr. Adams, before any evidence was given that Adams had any connexion either with the prisoner in particular, or with that society in general, whose proceedings they purported to be, and I was of opinion that that was not sufficient evidence to be let in as proof that they had any thing to do with a society of the name of the Society for Constitutional Information, still less with the prisoner.

If the attorney-general insists upon this going to the jury upon the mere circumstance of being found upon Adams, I think it must go to the jury, but it will go to the jury in so mutilated a way, that there will be no evidence to bring it home to the prisoner at the bar; but it would be upon the ground on which a multitude of papers were admitted in the last cause, and must necessarily be in all cases of this nature, where there is a general conspiracy charged, in which there are a great number of agents; all that which proves the transactions of any of those agents becomes general evidence in the cause with respect to the general nature of the conspiracy, leaving the particular part which belongs to the prisoner to be proved by direct evidence applicable to him. I thought it would have been the better way to have asked Adams the question that has been suggested.

Mr. *Attorney General*.—I would not have insisted on it upon any other ground than this, that conceiving it evidence, I do not think I am at liberty to sacrifice the great principles of the rules of law, however useful it may be to go beyond them in a particular case.

Lord Chief Justice *Eyre*.—I thank you for calling us back to our rules, for certainly we ought not to forget in this cause what we did in the last.

Mr. *Law*.—The point to which my friends have alluded, that occurred on the trial of Mr. Hastings, was a mere question of law—whether a person transmitting *ex officio* some papers respecting a charge of Nundocomar, made behind the back of Mr. Hastings, when he dissolved the council, and went away—whether those papers were evidence of the fact.

Lord Chief Justice *Eyre*.—There was nothing in that case but the mere personal charge against Mr. Hastings; there was no conspiracy in which other persons were or could be implicated.

Mr. Justice *Lawrence*.—In lord Strafford's case,* a great deal was proved against lord Strafford in Spain, the Low Countries, Italy, and various other places; and in lord Lovat's† case a great deal was proved against him that was done in various places, and unless ultimately brought and fixed upon him it amounted to nothing.

[The letter was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 1017.]

Mr. *Attorney General*.—In this letter from Ashton to Adams, we propose to prove that there is Mr. Tooke's hand-writing.

Lord Chief Justice *Eyre*.—We are come now to a time of night, and the cause is in such a stage, as I think makes it absolutely necessary for the Court now to come to some resolution as to its future proceedings. I observed that the prisoner at the bar did early in the morning expressly protest against any adjournment,‡ and it undoubtedly is a point in which he is materially interested, and in which the crown is also materially interested. Before the Court do come to any definitive resolution upon it, they are ready to hear any thing that on either side it may be thought fit to offer to them upon the subject.

Mr. *Attorney General*.—On the part of the prosecution I wish to submit entirely to the

* Vol. 3 of this Collection, p. 1381.
† Vol. 18 of this Collection, p. 529.
‡ See p. 23.

justice and pleasure of the Court acting according to what they think to be law and justice upon the subject. It is my duty to apprize the Court, and those concerned on the other side, that the evidence I have to offer upon the part of the prosecution must consume a great deal of time—I am myself ready to execute my duty in any way the Court may think proper.

Mr. *Tooke*.—As far as relates to myself, I confess that what I said when first I entered the court still impresses my mind; not that it affects me, but upon my honour, without any personal consideration whatever, I do think the criminal law and practice of the land exceedingly concerned in what has passed, but, at the same time, the kindness, the indulgence I have met with—because in that way I accept of indulgence, and nobody feels it more sensibly than I do—I leave it entirely to the Court, who must be better able to judge than I am of that which is fit for the subjects of this land. I beg your lordship to be persuaded, that whatever you wish me to ask—I do not say what you recommend, because I am persuaded you will not recommend—but I beg your lordship to believe that I ask that which you wish me to ask, because I know you will not call upon me to consent; for the laws of the land can never be got rid of by the consent of a poor miserable prisoner, who perhaps trembles for his life, and yields to whatever he guesses would be recommended by the Court. And I repeat to the Court, that I beg to be understood to ask that which they would wish me to ask.

Lord Chief Justice *Eyre*.—Nothing can be more correct than the conduct of the prisoner at the bar: this subject of adjournment has undergone a great deal of our anxious consideration since it was first started, and since we saw the infinite magnitude and extent of the cause which was to be tried. There can be no doubt but that the general rule is, that, in these criminal proceedings more especially, there ought, if possible, to be no adjournment; the proceedings should go on without intermission, and particularly that the jury should not be separated, and that there should be no access to them until they have given their verdict. I do not know that it ever underwent a solemn consideration, except in one case, the case of lord Delamere:* that was a particular case, because it was before Lords Triers, and not in full parliament. The difficulty was whether the trial could be adjourned, and what was to be done with the Lords Triers. The judges of the common law, who attended, were consulted upon it; they delivered it in as their opinion, that in the courts below, the jury, when once charged, were not to be discharged till they had pronounced their verdict; that they were not to separate; and that the course was to go on without intermission. They did not presume to say what the rule was in parliament: they referred to a general usage in the courts of common law (not respecting trials in capital cases in particular—not even respecting trials in criminal cases, but respecting all trials, taking it upon the general principle), that a jury once charged are not to be separated till they have pronounced their verdict.

Upon the authority of that case, and upon the practice, it undoubtedly is so far established, that there never ought to be an adjournment or separation, in any degree, of the jury, if it can be avoided; but there may arise a necessity so urgent that all those principles of justice, which originally demanded that there should be no adjournment, would loudly call for an adjournment; because the true principle upon which it is required that there should be no adjournment is for the furtherance of justice, that it may be quite sure that justice will be done, both to the crown and to the prisoner; that there should be no opportunity of having intercourse with the jury, and that there may be no improper influence upon the minds of those who are in any manner to take a part in the decision of the cause. That is the general ground upon which this rule has been established. But let a case arise in which it is manifest that if the cause goes on, without interruption or adjournment, it is utterly impossible that justice should be done; if it is likely to go into a length which will exhaust the human faculties, let them be as powerful and as strong as they may be; that neither the judge can preserve his faculties to conduct the trial, nor the jury can preserve that attention which is necessary to enable them to comprehend what the justice of the case is: what is it we should be doing, by going on with such a trial, but delivering over the life and honour of a prisoner, and delivering over the public justice of the country, to the accidental result of all that confusion with which such a case must go to the minds of a jury when the trial is closed?

Supposing that it was possible for human exertions to enable us to get to that length, there are then many other considerations of extreme importance. What if any of the jury should be so totally disabled, in consequence of the fatigue and want of necessary refreshment, that they cannot proceed, that they might even die before they could pronounce their verdict! We have had an intimation that two hundred hours were spent in the discussion of the last case of this sort; I know what it was to sustain the fatigue of eight days attendance, with the small intervals of rest that we had. My own case is a small consideration, because my individual loss would have been exceedingly well supplied by my lord and my brothers; but what if, instead of my being destroyed, it had happened that one of the jury had been! the consequence would have been, the prisoner must have had all this trial to undergo again, after

* In this Collection, Vol. 11, p. 509.

all the evidence had been closed; and after all those evils would necessarily have arisen, which it was the object of refusing an adjournment to guard against.

It does appear to me, therefore, if we suppose the necessity to be well established, that it is of so powerful a nature as to control the general rule and the general practice. Now how urgent that necessity is, we may learn from what did happen in the last cause, and from what we now see must happen in this cause. It does appear to me that there is not any chance of our going through this trial, either with justice to the public or with justice to the prisoner, and without manifest hazard to the prisoner, in case it should happen that a juryman should sink under the fatigue; and that the ends of justice, and a due concern for the safety of the prisoner, does, in truth, oblige us to direct that an adjournment should be made, and to go on as closely and diligently as we can, with such an interval of refreshment and rest as may enable us to come to the end of this cause with some tolerable ability to comprehend what the cause is. I will not put the prisoner to ask any thing—if an advantage may arise to him, let him have the benefit of it—my own idea is, that, without asking the consent of either the prosecutor or the prisoner, the Court is bound to take upon itself the responsibility that does belong to directing an adjournment in a case so circumstanced, and that the Court ought to do it, taking the consequences, whatever they may be.

Lord Chief Baron *Macdonald*.—Since the last trial I have revolved this subject very much in my own mind; and it seems to me, that when we come to consider what is the rule, it will resolve itself into this sort of consideration. The object of the rule that the jury shall not go out of court is, that they shall be inaccessible; the method in which that has been secured is, by their not going out of court: that is the manner in which the substance of the principle has been obtained. But if you can preserve the spirit, and are forced by physical necessity to make the form bend, it does not seem to me that the sacred principle of law is materially trenched upon, if the jury continue inaccessible. And it does not absolutely require that all the constituent members of the court—in which I include the counsel on both sides, who are to set forth their case; the jury, who are ultimately to determine the fact; the judges, who are to see that the law is declared on both sides, and with especial care on the side of the prisoner; if the rule of law cannot be preserved, consistent with physical necessity, it seems to me the Court is justified in deviating from the particular mode that has obtained, taking care that the jury do continue inaccessible.

Now, for example, were the prisoner's case to come forth at this moment, I confess myself, for one, after fourteen hours close attention, to be utterly incapable of doing my duty towards him. I think his interest is especially concerned in it; and the rather, because his case comes after the attention of both the bench and the jury is exhausted; he would come with peculiar disadvantage, if, when we were worn out beyond what our power and strength can bear, we were to be called upon to consider his case.

Upon these considerations, which have weighed much with me, added to what my lord chief justice has said, it seems to me, the thing is perfectly in its right train, that the prisoner should have no concern in the matter at all, but that he should leave the deviation from the manner in which the inaccessibility of the jury has constantly hitherto been preserved, to the Court, who are driven to that deviation by absolute necessity. There has been a case where this has occurred—the case of Elizabeth Canning;* and there, where physical necessity forced an adjournment, there it was complied with: but, except in the case of physical necessity or impossibility, undoubtedly the rule ought to be observed.

Mr. *Tooke*.—In order to meet your lordship here to-day at eight o'clock, I was compelled to get up at between three and four; and that will be my case every day. I labour under a very painful infirmity,† and I must be up four or five hours before I can come here.

Lord Chief Justice *Eyre*.—What can we do for you?

Mr. *Tooke*.—If I go from hence, and am to attend very early, I shall have no time for sleep.

Lord Chief Justice *Eyre*.—What I purposed was to meet at nine in the morning, and sit till nine at night punctually, with an interval of one quarter of an hour only to take refreshment.

Mr. *Tooke*.—I will do the utmost in my power.

Lord Chief Justice *Eyre*.—We shall not press you, Mr. Tooke, if your infirmities should require our waiting a little for you.

Mr. *Tooke*.—I will endeavour not to suffer your lordships to wait.

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* In this Collection, Vol. 19, p. 283.

† "In 1794, while confined in the Tower, Mr. Tooke's health suffered generally, and the complaint [in the *rectum*] first alluded to, increased greatly, so as to affect certain of the passages; but his pleasantries and sallies of wit never forsook him even for a moment. He was then attended by Dr. Pearson, Mr. Keate, and Mr. Cline; and on hearing them one day speak of the attention to be paid to the neck of the organ affected, he said gaily, 'I am much obliged to you 'for your kind care, in respect to that par- 'ticular part, and I will thank you to extend 'it to another *neck*, no less valuable, and no 'less in jeopardy!'" *Memoirs of John Horne Tooke, interspersed with original documents, by Alexander Stephens, esq. of the Honourable Society of the Middle Temple; Vol. 2, p. 423.*

Adjourned, it now being half past ten o'clock at night, to to-morrow morning, nine o'clock.

Sessions House in the Old Bailey, Tuesday, November the 18th.

PRESENT,

Lord Chief Justice Eyre; Lord Chief Baron Macdonald; Mr. Baron Hotham; Mr. Justice Grose; Mr. Justice Lawrence; and others, his majesty's Justices, &c.

John Horne Tooke set to the bar.

Mr. *Thomas Maclean* called again.

Mr. *Bower.*—Look at that paper—Where did you find it?—I found it in the possession of Mr. Adams.

Mr. *Bower.*—This is a letter from the Society for Constitutional Information, at Sheffield, to Mr. Adams. Mr. Woodfall will prove when he comes, that some interlineations are Mr. Tooke's hand-writing: we will read the letter in the mean time.

[It was read.]

[*Vide* Hardy's trial, *antè*, Vol. 24, p. 1019.]

Mr. *William Woodfall* called again.

Mr. *Bower.*—Look at the words that are interlined in this letter?—In the first page there is a word struck out; I believe "*government,*" but it is so obliterated that it is not easily discernable, and the word "*Country*" inserted.

In whose hand-writing?—I believe Mr. Tooke's.

Mr. *Tooke.*—It is certainly mine.

Lord Chief Justice *Eyre.*—What are the alterations.

Mr. *Bower.*—The alteration in Mr. Tooke's hand-writing is in two places "*a radical reform of the Country*" instead of "*a radical reform of the government,*" as it stood before:—The next is "*so salutary and desirable an object as a thorough reformation of our Country.*" which also stood originally "*Government.*" We are now going to read an entry from the book of the Constitutional Society of the 16th of March, 1792.

[It was read.]

"At a Meeting held at the Secretary's, Tooke's-court, Chancery-lane, Friday, 16th of March, 1792,

"PRESENT,

"J. H. Tooke, esq, in the chair,

"Mr. Paine, Mr. Hull, Mr. J. Adams, Mr. Sharpe, Mr. Frost, Capt. Tooke Harwood, Mr. M. Bush, Mr. A. Bush, Mr. G. Lloyd, Rev. Dr. Towers,

"James Mackintosh and Joel Barlow, esqrs. were unanimously elected honorary members."

"Ordered, That the secretary do inform James Mackintosh, esq. author of Vindiciæ Gallicæ, that he has been this day unanimously elected an honorary member of this society."

"Ordered, That the secretary do inform Joel Barlow, esq. author of the Advice to Privileged Orders, that he has been this day unanimously elected an honorary member of this society."

"The chairman of the Society for Constitutional Information, established at Manchester, having communicated to this Society the following resolutions:

"*Bull's Head Inn, Manchester, March* 13, 1792.

"At a meeting of the Manchester Constitutional Society, held this day, it was unanimously resolved,

"That the thanks of this society are due to Mr. Thomas Paine, for the publication of his "Second Part of the Rights of Man, combining Principle and Practice; "a work of the highest importance to every nation under heaven, but particularly to this, as containing excellent and practicable plans for an immediate and considerable reduction of the public expenditure; for the prevention of wars; for the extension of our manufactures and commerce; for the education of the young; for the comfortable support of the aged; for the better maintenance of the poor of every description; and, finally, for lessening greatly, and without delay, the enormous load of taxes under which this country, at present, labours.

"That this society congratulate their country at large on the influence which Mr. Paine's publications appear to have had in procuring the repeal of some oppressive taxes in the present session of parliament; and they hope that this adoption of a small part of Mr. Paine's *ideas will be followed by the most strenuous exertions to accomplish a complete reform in the present inadequate state of the representation of the people;* and that the other great plans of public benefit, which Mr. Paine has so powerfully recommended, will be speedily carried into effect.

(Signed) "THOMAS WALKER, president.
"SAMUEL JACKSON, secretary."

"Ordered, That the secretary do return, to the chairman of the society at Manchester, the thanks of this society for his communication; at the same time assuring him that this society does heartily concur in the above resolutions."

"Resolved, That the above resolutions be published twice in the following papers; Times, Post, Chronicle, World, Argus, English Chronicle, and General Evening; and signed by the chairman."

Mr. *Bower.*—We will now show that the minutes of those proceedings are in Mr. Tooke's hand-writing; Mr. Tooke was that day in the chair.

Mr. *Woodfall.*—I believe this is all the hand-writing of Mr. Tooke, except the identification.

Mr. *Tooke.*—They are all in my hand-writing.

[The rough draft of the minutes was read.]

Mr. *Bower.*—We will now read the proceedings of the 23d of March, 1792. Mr. Woodfall, do you know whose hand-writing that is?—This is the paper I proved last night.

Lord Chief Justice *Eyre.*—Does the paper, which is wafered to the book, contain the same resolutions as are entered in the book, or are these the resolutions themselves?

Mr. *Attorney General.*—The wafered paper, which is a printed paper, has an introduction in the hand-writing of Mr. Tooke.

Mr. *Gibbs.*—I think that was not found wafered.

Mr. *Attorney General.*—Yes, it was; but it was broke off by the witness last night.

[It was read.]

"At a Meeting held at the Secretary's house Tooke's court, Chancery-lane, Friday, 23d of March, 1792,

"PRESENT,

"Capt. W. Tooke Harwood in the chair,

"Mr. J. H. Tooke, Mr. Merry, Mr. J. L. Batley, Mr. Bush, Mr. Aspinal, Mr. Bonney Mr. J. Adams, Dr. Edwards, Mr. A. Bush, Mr. Sharpe, Mr. Lloyd.

"This society having received the following and other communications from Sheffield (*in writing*), 'Sheffield Society for Constitutional 'Information, (*in print*) 'March 14, 1792.' (*in writing.*)"

"This society, composed chiefly of the manufacturers of Sheffield, began about four months ago, and is already increased to nearly two thousand members, and is daily increasing exclusive of the adjacent towns and villages, who are forming themselves into similar societies.

"Considering as we do, that the want of knowledge and information in the general mass of the people, has exposed them to numberless impositions and abuses, the exertions of this society are directed to the acquirement of useful knowledge, and to spread the same as far as our endeavours and abilities can extend.

"We declare that we have derived more true knowledge from the two works of Mr. Thomas Paine, intituled 'Rights of Man, part the first and second,' than from any other author on the subject. The practice as well as the principle of government is laid down in those works in a manner so clear and irresistibly convincing, that this society do hereby resolve to give their thanks to Mr. Paine for his two said publications, intituled 'Rights of 'Man," parts 1st and 2d. Also

"Resolved unanimously, That the thanks of this society be given to Mr. Paine for the affectionate concern he has shown in his second work in behalf of the poor, the infant, and the aged, who, notwithstanding the opulence which blesses other parts of the community, are, by the grievous weight of taxes, rendered the miserable victims of poverty and wretchedness.

"Resolved unanimously, That the thanks of this society be given to John Horne Tooke, esq. for his meritorious support of our lawful privileges, as a firm advocate of our natural and just rights, the establishment of an equal representation of the people.

"Resolved unanimously, That this Society disdaining to be considered either of a ministerial or an opposition party (names of which we are tired, having been so often deceived by both), do ardently recommend it to all their fellow-citizens, into whose hands these resolutions may come, to confer seriously and calmly with each other on the subject alluded to; and to manifest to the world that the spirit of true liberty is a spirit of order; and that to obtain justice, it is consistent that we be just ourselves.

"Resolved unanimously, That these resolutions be printed, and that a copy thereof be transmitted to the Society for Constitutional Information in London, requesting their approbation for twelve of our friends to be entered into the society, for the purpose of establishing a connexion, and a regular communication with that and all other similar societies in the kingdom. By order of the committee,

"DAVID MARTIN, chairman."

[Note. *The following Resolutions were in writing:*]

"Ordered, That the secretary do return the thanks of this Society to the Society for Constitutional Information, established at Sheffield; and that he express to them with what friendship and affection this society embraces them as brothers, and fellow-labourers in the same cause. That he do assure them of our entire concurrence with their opinion, viz. That the people of this country are not, as Mr. Burke terms them, SWINE; but rational beings, better qualified to separate truth from error than himself, possessing more honesty, and less craft

"Resolved, That this society will, on Friday next, March 30th, ballot for twelve associated members, recommended by the Sheffield committee, and approved at this meeting.

"W. TOOKE HARWOOD, chairman."

Mr. *Bower.*—Look at the minutes of March 30th.

"At a Meeting held at the Secretary's house, No. 4, Tooke's-court, Chancery-lane, Friday, 30th of March, 1792,

" PRESENT,

" Major Cartwright, in the chair,

" Mr. J. L. Batley, Mr. Jeremiah Batley, Mr. J. H. Tooke, J. Adams, Mr. West, Dr. Edwards, Mr. Favell, Mr. Tuffin, Mr. Hollis, Mr. Bush, Mr. A. Bush, Mr. Paine, Mr. Aspinal, Mr. Hull, Mr. Lockhart, Mr. Joel Barlow, Mr. T. Harwood, colonel Bosville, Mr. Frost,

" Ordered, That the secretary do inform the Secretary of the Constitutional Society at Sheffield, of the election of twelve of their members, as associated members of this society.

" Read a letter with inclosed resolutions from Mr. Thomas Hardy, secretary to the Corresponding Society, London.

" Ordered, That the secretary do acknowledge the receipt of the said papers.

" Ordered, That the following resolutions from the above society be published in the papers.

" Ordered, That the following resolutions of this society be published with them.

" The society having this day received the following communication, *videlicit:*

" *London Corresponding Society.*

" Resolved, That every individual has a right to share in the government of that society of which he is a member, unless incapacitated.

" Resolved, That nothing but non-age, a privation of reason, or an offence against the general rules of society can incapacitate him.

" Resolved, That it is no less the right than the duty of every citizen to keep a watchful eye on the government of his country, that the laws by being multiplied do not degenerate into oppression; and that those who are intrusted with the government, do not substitute private interest for public advantage.

" Resolved, That the people of Great Britain are not properly represented in parliament.

" Resolved, That in consequence of a partial, unequal, and inadequate representation, together with the corrupt method in which representatives are elected, oppressive taxes, unjust laws, restrictions of liberty, and wasting of the public money, have ensued.

" Resolved, That the only remedy to those evils is a fair and impartial representation of the people in parliament.

" Resolved, That a fair and impartial representation can never take place until partial privileges are abolished; and the strong temptations held out to electors affords a presumptive proof, that the representatives of this country seldom procure a seat in parliament, from the unbought suffrages of a free people.

" Resolved, That this society do express their abhorrence of tumult and violence; and that, as they aim at reform not anarchy, reason, firmness, and unanimity be the only arms they employ, or persuade their fellow-citizens to exert, against abuse of power.

" Ordered, That the secretary of this society do communicate the foregoing to the societies for Constitutional Information, established in London, Manchester, and Sheffield.

" By order of the Committee,

" THOMAS HARDY, secretary."

" Resolved, That the secretary of this society do express to the Corresponding Society, the extreme satisfaction which we have received by the above communication; and to assure them of our desire to continue to correspond and co-operate with them, for the purpose of obtaining a fair representation of the people in parliament."

Mr. *Bower.*—Mr. Woodfall, look at the words—" Thomas Hardy, secretary," and state whose hand-writing they are?—I believe they are Mr. Tooke's.

Mr. *Attorney General.*—I will now call Maclean to prove that he found, in the possession of Mr. Adams, the rough draft of those resolutions, thus stated to be sent by the London Corresponding Society; and the hand-writing to the rough draft " Thomas Hardy, secretary," has now been proved, by Mr. Woodfall, to be Mr. Tooke's.

Mr *Tooke.*—It certainly is my hand-writing; but will you not prove who signed—" John Cartwright," at the bottom of the other?

Mr. Maclean produced the rough draft, which he said he found in the possession of Mr. Adams.

[The rough draft, signed John Cartwright, chairman, was read.]

Mr. *Bower.*—We will now put in a paper that has been proved, by Mr. Woodfall, to be Mr. Tooke's hand-writing; it is the rough minute of the last resolution that was read, namely: Resolved, That the secretary of this society do express to the Corresponding Society, the extreme satisfaction which we have received by the above communication; and to assure them of our desire to continue to correspond, and co-operate with them, for the purpose of obtaining a fair representation of the people in parliament."

Lord Chief Justice *Eyre.*—Where was that found?

Mr. *Bower.*—Among Mr. Adams's papers.

[The rough minute read.]

Mr. *Maclean.*—I found this paper also, in the possession of Mr. Adams.

Mr. *Bower* to Mr. William Woodfall.—Whose hand-writing do you believe this to be?—This I believe to be Mr. Tooke's hand-writing.

Mr. *Tooke.*—That is all my writing.

[It was read.]

" Sir;—I am directed by the Society for

Constitutional Information at London, to acknowledge the receipt of your letter, and to express to you the very great pleasure and satisfaction which they receive from your communication, the society have unanimously elected Messrs. [Here follow the names of the persons elected], as associated members of this society; and we flatter ourselves that whenever any business, or any other occasions shall lead any of these gentlemen to London, they will be kind enough to honour the society with their presence, and give us an opportunity of cementing that friendship between us, which all the zealous friends of public freedom, and the happiness of mankind, ought to feel for, and exercise towards each other. Your's, &c. D. A."

"*P. S.* I am desired by Mr. Horne Tooke, to request each of the associated members to honour him by their acceptance of the books which accompany this letter."

Mr. *Bower*.—We propose now to read a declaration from the society in Southwark.

[The following entries were read from the book of the Society for Constitutional Information:]

"At a Meeting held at the Secretary's house, Tooke's-court, Chancery-lane, Friday, 20th of April, 1792,

"PRESENT,

"Major Cartwright in the chair,

"Mr. Jeremiah Batley, Mr. J. L. Batley, Mr. Frost, Dr. Edwards, Mr. Lockhart, Mr. Aspinal, Mr. Walsh, Mr. Cooper, Mr. Hull, Mr. Tuffin, Mr. Favell, Mr. Sharpe, Mr. William Smith, Mr. Bush, Mr. Paine.

"A declaration from a society in Southwark was read.

"A motion was made, that the same lie on the table till Friday next, which passed in the negative.

"A motion was then made, that the said paper be now read a second time in order for publication, which passed in the affirmative; and that the following resolution be published:

"Resolved, That the thanks of this society be given to the under-mentioned society, for the following communication, and that it be published in the papers."

"At a Meeting at the Three Tuns tavern, Southwark, April 19th, 1792,

"Mr. Samuel Favell in the chair,

"Resolved, That we do now form ourselves into a society for the diffusion of political knowledge.

"Resolved, That the society be denominated THE FRIENDS OF THE PEOPLE.

"Resolved, That the following be the declaration of this society:

"CONSIDERING that ignorance, forgetfulness, or contempt of the RIGHTS OF MEN are the sole causes of public grievances, and of the corruption of government; the society, formed for the purpose of investigating and asserting those rights, and of uniting their efforts, with those of their fellow-citizens, for correcting national abuses, and restraining exorbitant and unnecessary taxation, do hereby declare—

"1st. That the great end of civil society is GENERAL HAPPINESS.

"2nd. That NO FORM OF GOVERNMENT is good, any farther than it secures that object.

"3rd. That all civil and political authority is derived from the people.

"4th. That equal active citizenship is the unalienable right of all men; minors, criminals, and insane persons excepted.

"5th. That the exercise of that right in appointing an adequate REPRESENTATIVE GOVERNMENT is the wisest device of human policy, and the only security of NATIONAL FREEDOM.

"We also declare, that we are wearied with the unmeaning names of WHIG and TORY, and of MINISTERIAL and OPPOSITIONAL parties, and having often—too often, been deceived by both, we can no longer implicitly confide in either. We will THINK for ourselves; we will study our own rights; and we leave to the INS and the OUTS all that idle quibble of debate which only serves to amuse and deceive the nation, and to hold it alternately the prey of COURT and PARTY INTRIGUES.

"We have beheld corruption generated upon corruption under the auspices of every administration; from whence we have reason to infer, that some RADICAL DEFECT exists in the system of government, that admits of no cure but from the united efforts of the nation.

"We have seen taxes multiplied upon taxes, for purposes unknown to us, at the mere will and pleasure of the party in power; and we have seen PARLIAMENTS refuse to know the cause for which such taxes were voted. Thus held in the dark by every part of government, our money taken from us without assigning a cause, and ourselves continually deceived, we have learned from experience the necessity of looking into our own rights, and of attending to our own interest.

"We are told that we have a constitution—if it permits these abuses, it is either *not* a good one, or good *only in part*, and defective in its principles, construction, and effects. The continual applause bestowed upon it by placemen, pensioners, government contractors, court expectants, and the hired editors of prostituted newspapers, has justly excited our suspicion either of its excellence or its existence. It may be good for THEM and not for us; and as we are no longer to be amused with a *name* or a *phantom*, we will direct our inquiries to the fact.

"We contemplate with pleasure the progress which this nation and mankind in ge-

neral are now making in the hitherto mysterious science of government. We observe a spirit of calm and rational inquiry rising and diffusing itself among all orders of people; and of a nature totally different from the tumultuous malevolence of party, and the artificial policy of statesmen.

"We are desirous, therefore, of uniting with the several societies already formed in various parts of the nation, for promoting an inquiry into, and asserting the rights of the people. We call upon our fellow citizens of all descriptions to institute similar societies, for the same great purpose; and we recommend a general correspondence with each other, and with the Society for CONSTITUTIONAL INFORMATION at LONDON, as the best means of cementing the common union, and of directing our united efforts with greater energy and effect.

"*Resolved,*

"*That the following be the Rules of the Society:*

"1. The number of members shall be unlimited, and each subscribe not less than 1*s.* 6*d.* per quarter, for the purpose of carrying on the designs of the institution.

"2. The society shall meet in small parties, or divisions, monthly, on any day of the first week of the month, except Tuesday; and when any division amounts to thirty members, it shall be subdivided, and form two.

"3. Each division to elect a chairman and secretary quarterly, and at the first meeting of the quarter. The chairman to be their representative in a general committee; and in case the division shall consist of twenty persons, another representative shall be chosen to accompany the chairman. The secretary shall record the transactions, and deliver quarterly to the general committee a correct list of the members of such division, collect the subscriptions, and pay them forthwith to the treasurer of the society.

"4. The representatives shall form a general committee—meet every Tuesday—and at their first meeting in each quarter elect a chairman and principal secretary. They shall correspond with similar institutions—determine on all publications to be circulated by the society—report to their respective divisions the proceedings and correspondence of the committee—and in all cases be governed by the prevailing sentiments of their constituents.

"5. The chairman of the general committee shall be treasurer for the time being—receive the subscriptions—pay all disbursements under the direction of the committee—and have his accounts audited by the next succeeding committee.

"6. Every division shall determine within itself on the mode of admitting members, and all other matters not provided for in the foregoing articles. A. C. RUSSELL, sec."

"At a Meeting held Friday, 27th April, 1792, at the Secretary's, Tooke's-court, Chancery-lane.

"PRESENT,

"Major Cartwright in the chair,

"Mr. Batley, Mr. J. L. Batley, M. Merry, Mr. Williams, Mr. Lockhart, Mr. J. H. Tooke, Mr. Frost, Captain Harwood, Mr. J. Adams, Mr. A. Bush, Mr. M. Bush, Mr. M. Pearson, Mr. Sharpe, Mr. Favell, Mr. Walsh, Mr. Fitzgerald, Mr. Hollis, Dr. Edwards, Mr. Hull, Mr. Cooper, Mr. Tuffin.

"Read the following letter, addressed to the society called the Friends of the People, associated for Constitutional Reform, assembled at Freemasons-tavern.

"Sir;—By the Society for Constitutional Information, I am commanded to express to you the satisfaction that its members feel on the institution of your society.

"That the House of Commons itself, which is the very subject to be reformed, should have furnished a part of this strength, may ultimately afford important advantages to the public. But it must not, sir, be disguised, that at first this circumstance will necessarily be accompanied with doubts, with suspicions, with apprehensions. It is not, sir, the first time that numbers of that house have professed themselves reformers: it is not the first time that they have entered into popular associations. But should they, on this occasion, prove faithfully instrumental in effecting a substantial reform in the representation of the people, and the duration of parliaments, it will be the first time that the nation hath not found itself in an error, when it placed confidence in associated members of parliament, for the recoveries of the constitutional and inestimable rights of the people. The long-lost rights of representation, are rights, sir, which in truth are not to be recovered but by the exertions and the unanimity of the people themselves. Impressed with this great truth, it has been an invariable object of this society 'to revive in the minds of the commonalty at large a knowledge of their lost 'rights, respecting the election and duration 'of the representative body'—and we doubt not that your society will see the wisdom of pursuing a like course. May it taste the delight of diffusing this knowledge; may it reap the honour of calling forth the energies of the nation!

"When this society, sir, contemplates that flood of light and truth which, under a benign Providence, is now sweeping from the earth despotism in all its forms, and infringement of rights in all its degrees, to make way for freedom, justice, peace, and human happiness; and when it sees your society announce itself to the world as the Friends of the People, it rests assured that this new institution abundantly partakes of that light, that it embraces that truth, and it will act up to the sacredness of that friendship which it professes, by nobly casting from it, with dis-

dain, all aristocratic reserves, and fairly and honestly contending for the people's rights in their full extent.

"Here, sir, be assured, lies all your strength. You may boast of names, of wealth, of talents, and even of principles; but without the fellowship of the people, understanding and feeling their immediate interest in the contest, your association, whenever it grapples with that powerful despotism to which it is opposed, and to which a constitutional cloak gives double strength, will most assuredly crumble to dust.

"Here, sir, it is with peculiar satisfaction that the Society for Constitutional Information can express its belief, that to its own unequivocal, 'Declaration of Rights, without which 'no Englishman can be a free man, nor the 'English nation free people,' it owes that confidence, on the part of all true friends to a substantial reform of parliament, which in all periods of the society's existence it has invariably experienced.

"This short declaration, containing no more than four distinct propositions, satisfied the people that the society assumed not the office of reformer, without knowing with precision what wanted reform; nor the character of friend, without manifesting that sincerity which gave proof of its attachment. It left to such reformers as Mr. Burke to talk of the people's liberties, and at the same time to deny or explain away their rights.

"This society, sir, trusts that the purity of principle which actuated individual members of parliament, who joined the associations that have been spoken of, will in no degree be affected by the observations that have been made upon the insufficiency of those associations. But, convinced that a strong impression still remains upon the minds of the people, that in general, persons who have long been accustomed to hold seats in the House of Commons, under the present abuses in the representation, and whose connexions are all aristocratic, must be almost more than men, at once and completely to sacrifice both prejudice and unwarranted power at the altar of freedom;—this society, convinced, I say, sir, of the existence of this impression, would not suffer its delicacy to stand in the way of its duty on this important occasion; but determined, with the frankness belonging to sincere affection, to warn its new brethren against a danger to which they might otherwise become exposed through mere inadvertency.

"That the distinguished persons who have adorned the senate, and now adorn your society, may be found equal to the sublime efforts of virtue which their situation now demands, and may on that account receive the blessings of their country, and of mankind, to the latest posterity, is the sincere, the ardent wish of the Society for Constitutional Information! In whose name I have the honour to subscribe myself with great regard.

"Resolved, That the said letter be signed by the chairman of this meeting, and sent to the said society, at their next general meeting."

Mr. *Bower*.—Who signs it?

Clerk of Arraigns.—Nobody.

Who was chairman?—Major Cartwright was in the chair.

Mr. *Thomas Maclean*.—I found this among Mr. Adams's papers.

[It was read.]

"Sir;—Fully sensible that the Society for Constitutional Information have made no sacrifice to delicacy in their address to us, we on our part shall affect no disguise.

"Voluntary associations not being armed with public authority, have no force but that of truth, no hope of success but in the strength of reason, and the concurrence of the public.

"We profess not to entertain a wish 'that 'the great plan of public benefit which Mr. 'Paine has so powerfully recommended will 'speedily be carried into effect,' nor to amuse our fellow-citizens with the magnificent promise of obtaining for them 'the rights of the 'people in their *full* extent:'—the indefinite language of delusion, which by opening unbounded prospects of political adventure, tends to destroy that public opinion which is the support of all free governments, and to excite a spirit of innovation of which no wisdom can foresee the effects, and no skill direct the course. We view man as he is, the creature of habit, as well as of reason. We think it therefore our bounden duty to propose no extreme changes, which, however specious in theory, can never be accomplished without violence to the settled opinions of mankind, nor attempted without endangering some of the most estimable advantages which we confessedly enjoy. We are convinced that the people bear a fixed attachment to the happy form of our government, and the genuine principles of our constitution; these we cherish as objects of just affection, not from any implicit reverence, or habitual superstition, but as institutions best calculated to produce the happiness of man in civil society: and it is because we are convinced that abuses are undermining and corrupting them, that we have associated for the preservation of those principles.

"We wish to reform the constitution, because we wish to preserve it.

"Associations formed in the face of power, in opposition to the interests of our present legislators, evince that *individual* security and *personal* independence are already established by our laws.

The immense accumulation of debt, the enormous taxation of seventeen millions of annual revenue, demonstrate that the *collective* interests of the community have been neglected or betrayed.

"We believe the defective constitution of the assembly entrusted with the public purse, to be the real source of this evil. With this view we have pledged ourselves to attempt a timely and salutary reform, adhering, in every measure we may take, to the fundamental principles of the constitution. According to those acknowledged principles, the people have a perfect right to possess an organ, by which the public mind may speak in legislation; and to bind their representatives to the interests of the whole community, by a frequent renovation of the trust. These objects accomplished, we believe abuses will find no protection in a genuine representation of the people; that regulations best adapted to the public happiness will be gradually infused into our laws, through the known channels of legislation; and that the agitated minds of men resuming their confidence in parliament will subside into a calm expectation of redress, without forgetting the principles or violating the form of the constitution.

"These, as we think, are the views of men detesting anarchy, yet sincere friends of the people. Your letter appears to us to be written with a view to create distrust of our designs, to insinuate doubts of sincerity, and to excite an early suspicion of our principles in the minds of the people. We have not, however, refused, in answer, to disclaim what we condemn, and to avow our real objects, from the pursuit of which we will not suffer ourselves to be diverted by any controversy. We must beg leave, at the same time, to decline all future intercourse with a society whose views and objects, as far as we can collect them from the various resolutions and proceedings which have been published, we cannot help regarding as irreconcileable with those real interests on which you profess to inform and enlighten the people.

"JOHN RUSSELL, chairman."

"Freemason's Tavern, Saturday, May 12th, 1792."

Addressed "John Cartwright, esq. chairman to the Society for Constitutional Information."

"*Freemason's Tavern, May 12th*, 1792.

"At a general meeting of the society of the Friends of the People, associated for the purpose of obtaining parliamentary reform,

"The right honourable lord John Russell in the chair,

"Resolved, That the proceedings of this day, including the letter from the Society for Constitutional Information, and the answer of this society to that letter, be printed and published."

"Resolved, That, together with the answer of this society to the letter of the Society for Constitutional Information, there be transmitted to John Cartwright, esq. chairman of that society, a copy of the resolution of the Society of the Friends of the People, to print and publish the letter and reply.

"JOHN RUSSELL, chairman."

Mr. *Thomas Maclean.*—I found this among Mr. Adams's papers.

Mr. *Bower (to Mr. William Woodfall.)*—You see there is an alteration of the date in this paper; whose hand-writing do you believe that alteration to be?—It is difficult to decide—it is not very clearly written.

Whose do you believe it to be?

Lord Chief Justice *Eyre.*—A mere alteration of a date!—I think it difficult to decide, but rather think it to be Mr. Horne Tooke's.

Mr. *Tooke.*—It certainly is mine.

Lord Chief Justice *Eyre.*—What is it?

Mr. *Bower.*—It is "ultimo" altered to "March;" it was taken into consideration the 4th of May.

[It was read.]

"At a Meeting of the Delegates of the United Constitutional Societies, held the 24th of March, 1792, at the Wheel of Fortune, Saint Edmund's in the city of Norwich, it was unanimously agreed to communicate to the gentlemen of the London Society for Constitutional Information the following Resolutions:

"1st. We are happy to see the success of the Sheffield Society for Constitutional Reform, and approve of the *delegations which you and they* have made, in order to form a plan of *General Information;* we humbly beg that you would grant to us the same favour; and it is our wish that all the societies of a similar kind in England were only as so many members *strongly and indissolubly united in one political body.*"

"2dly. We believe that instructing the people in political knowledge, and in their natural and inherent rights as men, is the only effectual way to obtain the grand object of reform; for men need only be made acquainted with the abuses of government, and they will readily join in every lawful means to obtain redress. We have the pleasure to inform you that our societies consist of *some hundreds; and new societies are frequently forming, which by delegates preserve a mutual intercourse with each other for instruction and information;* and the greatest care has been taken to preserve order and regularity at our meetings, to convince the world that riot and disorder are no parts of our political creed.

"3rdly. We believe, and are firmly persuaded, that Mr. Burke (the once friend of liberty) has traduced the greatest and most glorious revolution ever recorded in the annals of history. We thank Mr. Burke for the political discussion provoked, and by which he has opened unto us the dawn of a glorious day."

"4thly. To Mr. Thomas Paine our thanks are especially due, for *his first and second Parts of the Rights of Man;* and we sincerely wish

that he may live *to see his labours crowned with success in the general diffusion of liberty and happiness among mankind.*

5thly. We view, with concern, the late discoveries relative to the Westminster election, in 1788; and conceive ourselves, and all true friends of freedom under great obligations to Messrs. Thomson, Windham, Francis, Taylor, and all the noble and spirited MINORITY, * for their exertions in order to discover the true source of that abominable and iniquitous procedure.

"6thly. We congratulate our brethren in the various parts of the kingdom, on the progress of political knowledge, and earnestly intreat them to increase *their associations, in order to form one grand and extensive union of all the friends of general liberty*—and we hope the time is not far distant, when the people of England will be equally and faithfully represented in parliament. "Signed by order,

"JOHN BROUGHTON, chairman."

Addressed "The London Constitutional Society."

Mr. *Maclean.*—I found this letter amongst Mr. Adams's papers.

Mr. *Bower.*—(*to Mr. William Woodfall.*) Shall I trouble you to say whether the descriptions in the list of persons at the end of that letter are in the hand-writing of the prisoner or not?—They are.

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting held Friday, 4th May, 1792, at the Secretary's-house, Tooke's-court, Chancery-lane.

"PRESENT,

Mr. Sharpe in the chair,

Mr. J. H. Tooke, Mr. Williams, Mr. Merry, Mr. M. Pearson, Mr. Fitzgerald, Captain Harwood, Mr. Lockhart, Major Cartwright, Mr. Hollis, Mr. Paine, Mr. William Sharpe, Mr. Adams, Mr. M. Bush, Rev. Mr. Joyce, Mr. Frost, Mr. Aspinal, Mr. A. Bush, Mr. Wheeler, Mr. Walker, Mr. Walsh, Dr. Kentish, Mr. Tuffin.

"The following gentlemen, recommended by the Norwich Society, were elected associated members of this society:—Mr. Thomas Goff, Mr. William Taylor, Mr. William Firth, Mr. Thomas Barnard, Mr. George Watson, Mr. Mark Wilkes, Mr. Charles Basham, Mr. John Dalrymple, Mr. Edward Barrow, Mr. Henry Dobson, Mr. Henry Catton.

"Mr. Martin, of Richmond buildings, Dean-street, Soho, was proposed as an honorary member by Mr. Tooke, and seconded by Mr. Frost.

"Read the following letters from the Revolution and Constitutional Societies at Norwich.

"This society having received the following communication from the Revolution Society at Norwich, viz.

"To the London Society for Constitutional Information.

"The Revolution Society wishes to open a communication with you at this time, when corruption has acquired a publicity in the senate, which exacts from the honour of the British nation renewed exertions for parliamentary reform.—Without prejudging the probable events of such an application to the legislature, this society is willing to circulate the information, and to co-operate in the measures that may seem best adapted to farther so desirable and so important an end. It is willing to hope the redress of every existing grievance at the hands of a government resulting from an extraordinary convocation, in 1688, of all who had at any preceding time been elected representatives of the people, assisted by the hereditary counsellors of the nation, and a peculiar deputation from the metropolis, which National CONSTITUTING Assembly cashiered for misconduct a king of the House of Stuart.

"The opinions and principles of this society are best explained by an appeal to their literary representatives. To James Mackintosh, author of Vindiciæ Gallicæ, this society offers the tribute of its *Approbation and Gratitude*, for the knowledge, the eloquence, and philosophical spirit with which he has *explained, defended, and commented on, the Revolution of France.* It hesitates to assent to this only of his opinions, that 'there are but two interests 'in society, those of the rich and those of the 'poor.' If so, what chance have the latter? Surely the interests of all the industrious, from the richest merchant, to the poorest mechanic, are in every community the same—to lessen the numbers of the unproductive, to whose maintenance they contribute, and to do away such institutions and imposts as abridge the means of maintenance, by resisting the demand for labour, or by sharing its reward; as the means most conducive to this comprehensive end, the Norwich Revolution Society desires an equitable representation of the people.

"The *Rights of Man*, by *Thomas Paine*, and the Advice to the Privileged Orders, by Joel Barlow, have also been read with attention, and circulated with avidity. They point out with clearness most of the abuses which have accumulated under the *British Government;* they attack with energy *most of the prejudices which have tended* to perpetuate them.

"Internally, our society is thus organized:—Any person proposed and seconded by a member is received, on paying an admission

* See a Debate in the House of Commons on a complaint against Mr. George Rose, March 13, 1792. New Parl. Hist. Vol. 29, p. 1014; see also Vol. 28, p. 922 of the same work.

fine, and obliging himself to an *annual contribution* toward the purchase of books for the use of the society, and for circulation among *the confederated clubs*. The members assemble *twice, monthly*. *A Committee of Correspondence* is periodically elected by ballot, to select books, and to conduct the other literary business. *A Committee of twelve is periodically named by acclamation* to attend severally the meetings of *the various confederated clubs*, which are invited in like manner to depute *a member to the monthly meetings of this*: these clubs are now seven in number; and more are expected to announce their adherence. The Norwich Revolution Society, proposing to extend this form of combination, recommends for admission into the London Society for Constitutional Information the following twelve persons:—Thomas Goff, chairman; William Taylor, one of the first manufacturers; William Firth, a considerable manufacturer; Thomas Barnard, ditto, George Watson; Mark Wilkes, preacher, Charles Basham, John Dalrymple, Edward Barrow, a considerable warehouseman, Henry Dobson, Henry Catton.

"THOMAS GOFF, chairman."

"Norwich, April 26th, 1792."

Addressed, "John Cartwright, esq. No. 4, Tooke's-court, Chancery-lane, London."

"Resolved, That this society receives the above communication with the most heart-felt satisfaction, and desires earnestly to concur and co-operate with those societies in their laudable objects; that the secretary do inform them of the same, and that this society has unanimously elected the twelve members of the Norwich Society to be associated members of this society."

Mr. *Bower*.—We now propose to read a letter from Martin. Mr. Woodfall, look at that letter and see whether any part of it is Mr. Tooke's?—There is a line in this first page which is Mr. Tooke's hand-writing.

Lord Chief Justice *Eyre*.—Where does that paper come from?

Mr. *Bower*.—It was found among Mr. Martin's papers: it is the draft of a letter.

Lord Chief Justice *Eyre*.—What is in Mr. Tooke's hand-writing?

Mr. *Bower*.—The words, "Gentlemen so highly approved of by the public," are inserted instead of the words "learned men."

[It was read.]

"Sir;—I have before me your favour of the 14th instant, informing me that at a meeting of the Society for Constitutional Information, held last Friday, I was unanimously elected an honorary member. I beg you will be so good as to assure the society I esteem this honour as it ought to be esteemed by me. I have the honour to know but few of the members; I cannot presume this imputable to private individuals, and am far from presuming my conduct to be such as to attract the notice of gentlemen so highly approved of by the public."

Mr. *Attorney General*.—We propose now to read the proceedings of the 11th of May, 1792. It may be material to mention, that it will appear by the books that the dinner club began on the 1st of June, 1792; the meetings before that time were at the secretary's house, and there were no preceding dinners.

[The following entries were read from the books of the society for Constitutional Information:]

"At a Meeting held Friday, 11th May, 1792, at the Secretary's house, Tooke's-court, Chancery-lane,

"PRESENT,

"Major Cartwright in the Chair,

"Dr. Melville, Mr. Jeremiah Batley, Mr. J. L. Batley, Rev. Mr. Joyce, Mr. Lockhart, Mr. Bush, Mr. Fitzgerald, Mr. Sharpe, Mr. Tooke, Mr. Williams, Mr. W. Sharpe, Mr. Tuffin, Mr. Frost, Mr. M. Pearson, Mr. Favell, Mr. West, lord Daer, Mr. M. Bush, Mr. Aspinal, captain Tooke Harwood, Mr. Merry, Mr. Hollis, Dr. Edwards, Mr. J. Adams, Mr. Charles Sharpe, Mr. Walsh.

"Resolved, That there be a communication from this society with the society of the Friends of the Constitution at Paris, known by the name of the Jacobins.

"Read the following Address from this society to the society of Friends of the Constitution at Paris, called the Jacobins:

"BROTHERS, AND FELLOW-CITIZENS OF THE WORLD;

"The cordial and affectionate reception with which you have honoured our worthy countrymen, Mr. Thomas Cooper and Mr. James Watt, members of the society of Manchester, and united with our society, has been communicated to us by the correspondence of those gentlemen.

"In offering you our congratulations on the glorious Revolution which your nation has accomplished, we speak a language which only sincerity can dictate.

"The formality of courts affords no example to us. To do our thoughts justice, we give to the heart the liberty it delights in, and we hail you as brothers.

"It is not among the least of the revolutions which time is unfolding to an astonished world, that two nations, nursed by some wretched *craft* in reciprocal hatred, should so suddenly break their common *odious* chain, and rush into amity.

"The principle that can produce such an effect, is the offspring of no earthly court; and whilst it exhibits to us the expensive iniquity of former politics, it enables us, with bold felicity, to say, we have done with them!

"In contemplating the political condition

of nations, we cannot conceive a more diabolical system of government, than that which has hitherto been generally practised over the world: to feed the avarice and gratify the wickedness of ambition, the fraternity of the human race has been destroyed; as if the several nations of the earth had been created by rival Gods. Man has not considered man as the work of one Creator

"The political institutions under which he has lived have been counter to whatever religion he professed.

"Instead of that universal benevolence which the morality of every known religion declares, he has been politically bred to consider his species as his natural enemy, and to describe virtues and vices by a geographical chart.

"The principles we now declare are not peculiar to the society that addresses you; they are extending themselves, with accumulating force, through every part of our country, and derive strength from an union of causes, which no other principles admit.

"The religious friend of man, of every denomination, records them as his own; they animate the lover of rational liberty; and they cherish the heart of the poor, now bending under an oppression of taxes, by a prospect of relief.

"We have against us only that same enemy which is the enemy of justice in all countries, —a herd of courtiers fattening on the spoil of the public.

"It would have given an additional triumph to our congratulations, if the equal rights of man (which are the foundation of your declaration of rights) had been recognized by the governments around you, and tranquillity established in all: but if despotisms be still reserved, to exhibit, by conspiracy and combination, a farther example of infamy to future ages, that power that disposes of events best knows the means of making that example finally beneficial to his creatures.

"We have beheld your peaceable principles insulted by despotic ignorance: we have seen the right hand of fellowship, which you hold out to the world, rejected by those who riot on its plunder: we now behold you a nation provoked into defence; and we can see no mode of defence equal to that of establishing the general freedom of Europe.

"In this best of causes we wish you success. Our hearts go with you; and in saying this, we believe we utter the voice of millions."

"Resolved, That the above address be signed by the chairman and secretary, and that Mr. J. H. Tooke be requested to transmit it, with all possible dispatch, to Mr. James Watt, at Paris.

"Resolved, That the said Address be read a second time at the next meeting, for publication."

"At a Meeting held Friday, the 18th of May, 1792, at the Crown and Anchor Tavern, Strand,

"PRESENT,

Major Cartwright in the Chair,

"Mr. Tooke, Mr. Merry, lord Daer, Mr. Paine, Mr. Lloyd, Dr. Edwards, Mr. Bush, Mr. J. Adams, captain T. Harwood, Mr. J. L. Batley, Mr. Williams, Mr. Hull, Mr. Watts, Mr. Fitzgerald, Mr. William Sharpe, Mr. Aspinal, Mr. M. Pearson, Mr. Martin, Mr. Gerrald, Mr. Sturch, Mr. Sharpe (Charlotte-street), Mr. M. Bush, Mr. Lockhart, Mr. Batley, Mr. Favell, Mr. Frost, Mr. Cooper, Mr. Campbell, Mr. Tuffin,

"Read a second time the Address to the Friends of the Constitution at Paris, known by the name of the Jacobins.

"Ordered to be published in the papers.

"Read the following letter, addressed to the chairman of this society, from Mr. Thomas Paine:

London, May 18th, 1792.

"Sir;—The honourable patronage which the Society for Constitutional Information has repeatedly given to the works, intituled Rights of Man, renders it incumbent on me to communicate to them whatever relates to the progress of those works.

"A great number of letters, from various parts of the country, have come to me, expressing an earnest desire that the first and second parts of 'Rights of Man,' could be rendered more generally useful, by printing them in a cheaper manner than they have hitherto been; as those requests were from persons to whom the purchase at the present price was inconvenient, I took the proper means for complying with their requests.

"I am since informed that the ministry intend bringing a prosecution; and as a nation (as well the poor as the rich) has a *right* to know what any works are that are made the subject of a prosecution, the getting out a cheap edition is, I conceive, rendered more necessary than before, as a means towards supporting that right;—and I have the pleasure of informing the society that I am proceeding with the work.—"I am, sir, with great respect, your obedient, humble servant,

"THOMAS PAINE."

"To the Chairman of the Society for Constitutional Information."

"The society took into consideration the contents of the aforesaid letter, and came to the following resolutions:

"Resolved, That the thanks of this society be given to Mr. Thomas Paine, for the communication he has made, and for the patriotic disinterestedness manifested therein."

"Resolved, That this society will contribute its utmost aid towards supporting the rights of the nation, and the freedom of the press, and him who has so essentially and successfully contributed to both.

†

"Resolved, That the right of investigating principles and systems of government is one of these rights; and that the works of any author which cannot be refuted by reason, cannot, on the principles of good government or of common sense, be made the subject of a prosecution.

"Resolved, That the excessive taxes which this country pays, being now seventeen millions annually, give an additional motive for the exercise of this right, and render it at the same time a more immediate duty the nation owes to itself, to enter upon and promote all such investigations."

"Resolved, That a committee be appointed to inquire into the rumour of the above-mentioned prosecution; and to report thereon to the society at its next meeting."

"Resolved, That a copy of Mr. Paine's letter, together with these resolutions, be transmitted to all the associated societies in town and country; and that this society do congratulate them on the firm and orderly spirit, and tranquil perseverance, manifested in all their proceedings, and exhort them to a steady continuance therein."

"Resolved That 3,000 copies of the above letter and resolutions be printed for the use of this society."

Mr. *Bower*.—These are the minutes of those resolutions which we have proved to have corrections in the hand-writing of Mr. Tooke. [*To Mr. Maclean showing him some papers.*] Did you find these at Mr. Adams's house?—Yes, sir.

To Mr. Woodfall.—Look at that [showing him a paper] whose hand-writing is that?—and is that [showing another paper] Mr. Tooke's?—I believe them both to be Mr. Tooke's;—there are two words "Free Nation," and the other line of Mr. Tooke's hand-writing.

Mr. *Bower*.—It is only proving the rough draft, which is altered.

Lord Chief Justice *Eyre*.—The rough draft should be read if you mean to bring it home to the prisoner.

[The rough draft was read.]

Mr. *Attorney General*.—Mr. Adams proved last night that he paid for printing Paine's Letter, the Resolutions, and the Address to the Jacobins, in several newspapers; we will now read an extract from this book, which was proved by Mr. Adams. There is an observation respecting the Herald and the World; that the one declined to insert any of the societies publications, the other declined to insert this publication, and the Gazetteer returned the money.

[The following extract was read from a book containing the general receipts and disbursements of the Society for Constitutional Information:]

"Mr. Paine's Letter, Resolutions, and Address to the Jacobins:

		£.	s.	d.
"22d May, 1792,	Argus,	1	4	0
"23d —— ——	Argus,	0	10	6
"25th —— ——	Morning Chronicle,	1	4	0
	"Herald, returned, declining to insert any of the society's publications.			
	"World, declined.			
	"Oracle,	1	5	0
	"Gazetteer, returned.			
	"Morning Post, not inserted.			
	"English Chronicle,	1	6	0
	"General Evening,	1	7	0

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting held, Friday, 25th of May, 1792, at the Crown and Anchor tavern, Strand,

"PRESENT,

"Mr. Bush in the chair,

"Mr. Tooke, Dr. Maxwell, Mr. Merry, Mr. Paine, Mr. Frost, Mr. Bonney, Mr. C. Sharpe, Mr. J. Adams, Mr. John Martin, Mr. A. Bush, Lord Daer, major Cartwright, Mr. Gerrald, Mr. J. Williams, Mr. Lockhart, Mr. Favell, Mr. Joyce, Mr. Williams, rev. Dr. Towers, Dr. Edwards, Mr. Aspinal, Mr. Fitzgerald, Mr. Sharpe, Mr. W. Sharpe, Mr. Tuffin, Mr. Balmanno, Mr. Kemble, Mr. Cooper, Mr. M. Pearson.

"Ordered, That 6,000 more copies of the bills, directed at the last meeting, be printed: That 100 be sent to each of the twelve associated members of the Sheffield Constitutional Societies; 100 to each of the twelve associated members of the Norwich Constitutional Society; 200 to each of the other societies corresponding with this society; 200 to Mr. Joyce for Mr. Fox of Derby; and 200 to the society at Belpar."

Lord Chief Justice *Eyre*.—What is that book?

Mr. *Gibbs*.—It is Mr. Adams's private book, in which, probably, he kept the accounts.

Mr. *Tooke*.—I beg pardon, we confess the payment of our debts.

Mr. *Erskine*.—Mr. Tooke admits they paid their debts; I wish every body could admit as much.

Mr. *Gibbs*.—I submit that it is not evidence.

Mr. Justice *Lawrence*.—It is evidence that the sums entered there were paid by him.

Mr. *Gibbs*.—If he has proved the fact, that the sums which are in that book were paid by him, then that fact is proved out of his mouth; when I made the objection it was offered as a book of the society.

Lord Chief Baron *Macdonald*.—He said, last night that all the entries in that book were of disbursements made by him.

Lord Chief Justice *Eyre*.—What is this an account of?

Mr. *Attorney General.*—It is for printing Paine's Letter and the Address to the Jacobins.

[The following extract was read from a book containing the general receipts and disbursements of the Society for Constitutional Information:]

	£.	s.	d.
" May 15th. Goldney, as per receipt, for printing Paine's Letter and Address to the Jacobins.	12	12	0
" May 25th. Parcel to Sheffield, with Paine's Letter to Dundas	0	9	11
" Ditto to Norwich	0	8	8
" Parcel to Leicester, with Paine's Letter to Dundas	0	1	6

Mr. Justice *Lawrence.*—Upon looking back to my notes, I do not know whether I have not mistaken, as to what Adams said; he said the book contained true entries, as he believed; I thought that applied to the book of accounts; but, upon looking over my notes, I believe he applied it to the entries in the book of the society.

Mr. *Erskine.*—Your lordship is quite correct; it applied to the book of the society.

Mr. Justice *Lawrence.*—I believe, from my memory, that it applied to both.

[The following entries were read from the book of the Society for Constitutional Information:]

" *May 25th.*

" Read a communication from the London Corresponding Society, as follows:

" Sir;—By direction of the delegates of the London Corresponding Society, I have the honour of enclosing to you a copy of their address and regulations, which I request you will communicate to the Constitutional Society. I am truly, sir, your obedient and very humble servant,

" Thomas Hardy, secretary.

" Bell, Exeter-street, May 24th, 1792."

" To the chairman of the Constitutional Society."

" Resolved, That the thanks of this society be returned to the London Corresponding Society, for the communication which it has made to this society; and that the farther consideration of the said communication be postponed to the next meeting of this society."

" At a Meeting held at the Crown and Anchor tavern, Strand, Friday, 1st of June, 1792,

" Present,

" Robert Merry, esq.; in the Chair,

" Mr. J. H. Tooke, Mr. Frost, rev. Mr. Joyce, Mr. W. Sharpe, Mr. West, Mr. John Martin, Mr. M. Pearson, lord Daer, Mr. Bonney, Mr. Rutt, Mr. Sturch, Mr. G. Williams, Mr. M. Bush, Capt. Tooke Harwood, Mr. I Williams, Mr. A. Bush, Mr. B. Cooper, Mr. Lockhart, Mr. Aspinal, Mr. Watts, Mr. Favell, Mr. Kemble. Dr. Edwards, Mr. J. Adams, Mr. Balmanno, Mr. Gerrald, Mr. Walsh.

" The secretary reported that he had sent 1,200 of the printed bills, ordered at the last meeting, to the Sheffield Constitutional Society; 1,200 to the Norwich Constitutional Society; to the Southwark Constitutional Society 200; to the London Corresponding Society 200; to Mr. Joyce, to be forwarded to Mr. Fox of Derby, 200; to the Constitutional Whigs 200; to the society at Belpar 200.

" Resolved, That the secretary send to Mr. Joyce, to be forwarded to Birmingham, 600; to the society at Aldgate 200; to Mr. Walker, of Manchester, 1,200; to lord Daer, to be forwarded to Liverpool, 200; to Mr. Rutt, to be forwarded to Cambridge, 500; and 400 to lord Sempil, to be distributed among the societies in the neighbourhood of Glasgow."

[The following letter, from the London Corresponding Society, was read.]

Thursday 31st, May, 1792.

" Sir;—The London Corresponding Society return thanks to the Society for Constitutional Information for the communication of Mr. Thomas Paine's letter to them, and of their resolutions subsequent thereto.

" It gives us infinite satisfaction to think that mankind will soon reap the advantage of Mr. Paine's labours, in a new and cheaper edition of the Rights of Man.

" We are, however, no ways surprised at the report of a prosecution being commenced against his works, for, by the doctrine substituted for law in England, that truth constitutes the libel, the very many truths in both volumes of the Rights of Man, render them completely libellous; and force administration, perhaps against their inclination, to submit them to the impartial investigation of competent judges.

" His majesty's proclamation next engages our notice: After reading it with great attention, we discard an idea thrown out by some, that it had been drawn up and sent forth, at this juncture, with a view of raising unfavourable prejudices in the minds of the people against Mr. Paine, or his works, now under a prosecution; inasmuch as such an attempt, if it could be proved, would not only bear malice on the face of it, but would likewise be a most daring violation of the laws.

" We are more willing to discover therein his majesty's great goodness of heart and paternal care, anticipating our warmest wishes, giving the greatest encouragement to our different societies, and holding forth the same strong desire with us *of abiding by the constitution in its pure and uncorrupt state; of securing the public peace and prosperity; of preserving to* ALL *the full enjoyment of their rights and liberties, both religious and civil;* and seeming, in fact, to encourage them under the most serious consideration of *their own welfare, and that of their posterity;* to join

us, and unite their endeavours with ours *in guarding against all attempts aiming at the subversion of wholesome and regular government*; and *to discourage and repress, to the utmost of their power, all proceedings tending to produce riots and tumults.*

"Our ends being thus incontrovertibly the same, and thereby enjoying the royal sanction, we imagine that in exercising our right of meeting, when and where we please, of canvassing such subjects as we think proper, of instructing our fellow-citizens, and of uniting our endeavours to obtain a perfect representation in parliament, we are taking the truest method of securing to ourselves and our posterity all the blessings of liberty and peace.

"Yielding to the society for Constitutional Information, both in priority of institution and in greatness of abilities, we yet put in our claim for equality of zeal towards the public good, and firm determination to obtain it. We are, with great esteem, sir, your faithful, humble servants,

"Maurice Margarot, chairman.
"Thomas Hardy, secretary."

Addressed, "Major Cartwright, chairman of the Society for Constitutional Information."

"Ordered, That the said letter be published in such newspapers *as will receive* the advertisements of this society."

"At a Meeting held at the Crown and Anchor tavern, Strand, on Friday the 8th of June, 1792,

Present,

Mr. Sturch in the chair,

"Mr. J. H. Tooke, Mr. Frost, Mr. Bonney, colonel Miles, Dr. Maxwell, Mr. Hull, Mr. Sinclair, Mr. M. Pearson, Mr. Lockhart, Rev. Mr. Joyce, Mr. Favell, Mr. John Martin, Mr. Choppin, captain Tooke Harwood, Mr. M. Bush, Mr. Jennings, Mr. Balmanno, Mr. Aspinal, Mr. West, Mr. G. Williams, Mr. Bush, Mr. B. Cooper, Mr. Symonds, Mr. Tuffin, Mr. Fitzgerald, Mr. J. L. Batley, Mr. J. Adams.

"Resolved, That an open committee of the members of this society meet at the secretary's house to-morrow, at two o'clock, to take into consideration Mr. Paine's letter, which is to be printed in the Argus of to-morrow; and that the committee have power to transmit copies thereof to the different Corresponding Societies in the country, if they shall think proper."

Mr. *Attorney General*.—Your lordship will find, from subsequent entries, that those words—"Paine's Letter,"—means Mr. Paine's letter to Mr. Dundas, given in evidence upon the former trial, and which will be given in evidence again on this; and your lordship will find, in the book of accounts, a parcel to Norwich, of Paine's letter to Mr. Dundas; a parcel to Sheffield; a parcel to Glasgow; another parcel to Sheffield; another to Norwich, &c. We will now read the proceedings of the Constitutional Society, of the 25th of May, and the 15th June, 1792.

"*May* 25, 1792.

"Read a paper called a proclamation, dated 21st instant.

"Ordered, That the following resolutions, relating to the said paper, called a proclamation, be published in all the newspapers.

"The society took into consideration a paper, generally circulated, under the name of a proclamation, whereupon the society came to the following resolutions:

"Resolved, That the great pains taken in the aforesaid circulated paper, to inform the people of their happiness, appears to this society to be at least unnecessary; for, if the people are happy, they need not the information; and, if they are not so, it is not a proclamation that will make them believe it.

"Resolved, That the people necessarily separated, for the purpose of following their several occupations, and attending to their domestic concerns, have a right to meet, associate, and communicate together, upon all matters relative to their common good; and it is a duty they reciprocally owe to each other, so to do.

"Resolved, That any publications, however denominated, which tend either directly, or by loose, general, and obscure expressions, to prohibit or control the aforesaid right of association, or any other right, renders the exercise of that right the more necessary, and especially under the present circumstances, when the weight of taxes, and the excessive dearness of provisions, are subjects of general complaint; and an apprehension prevails, that a confederacy of courts is formed, or forming, against the natural and civil rights of man.

"Resolved, That as it is a more grievous injury to kill than to defame, so is it in the opinion of this society much worse, to repeal and expunge, than to vilify and bring into contempt the wise and wholesome provisions made for the preservation and security of the rights and liberties of the people.

"Resolved, That the provisions of an act of the sixth of William and Mary, chap. 2, 'That from henceforth no parliament whatsoever, that shall, at any time hereafter, be called, assembled, or held, shall have any continuance, any longer than for three years only, at the farthest, to be accounted from the day on which, by the writs of summons, the said parliaments shall be appointed to meet:'

"Also, That the provision of 12 William 3, chap. 2, 'that all matters and things relating to the well governing of this kingdom, which are properly cognizable in the privy council, by the laws and customs of this realm, shall be transacted there; and all resolutions taken

thereupon shall be signed by such of the privy council as shall advise and consent to the same:'

" Also, That the farther provision by the said act, ' that no person who has an office, or place of profit, under the king or receives a pension from the crown, shall be capable of serving as a member of the House of Commons:'

" Resolved, That the foregoing were, in a great degree, wise and wholesome provisions, made for the preservation and security of the rights and liberty of the people, which, notwithstanding, so far from being since strengthened and confirmed by subsequent laws, have, to our great mischief, been totally repealed and taken away.

" Resolved, That the monstrous enormity and grievance of the present national debt;

" The grievous oppression of seventeen millions annually of taxes;

" The scandalous duration of parliaments for seven years;

" Private proprietors of boroughs, falsely pretending to be, and really acting as, representatives of the people;

" Judges claiming in all cases, and under all circumstances, the determination of the criminality or innocence of any act, exclusively of the jury; expensive armaments, and menacing proclamations and encampments, in time of a profound peace:

" These things we cannot believe either wise or wholesome; and we declare it to be a fatal omission, at the time of the Revolution, that these things were not sufficiently guarded against; and we feel it our duty, to the utmost of our power, to obtain a full and fair representation of the people, which we hold to be the only effectual security for their rights, liberties, and property, and to be the only measure that can produce that due submission to the laws, and that just confidence in the integrity and wisdom of parliament, which are declared in the said paper, called a proclamation, to be the chief causes (under Providence) of the wealth, the happiness, and the prosperity of the kingdom.

" Mr. Tooke, from the committee appointed at the last meeting, to inquire relative to the rumour of a prosecution against Mr. Paine, desired time to make their report till a future meeting."

" At a Meeting, held on Friday, the 15th of June, 1792, at the Crown and Anchor tavern, Strand,

" PRESENT,

" J. H. Tooke, esq. in the chair,

" Mr. Simmonds, Mr. Bonney, Mr. Frost, Mr. M. Pearson, Mr. W. Sharpe, Mr. C. Hull, Mr. Williams, Mr. Martin, Mr. Lockhart, Mr. Bush, Mr. A. Bush, Mr. Choppin, Mr. Wood, Mr. Chatfield, Rev. Mr. Joyce, Dr. Edwards, Mr. G. Williams, Mr. Sinclair, Mr. Sturch, Mr. Fitzgerald, lord Daer, Mr. Aspinal, colonel Miles, Mr. Walsh, Mr. Cooper,

" Read a letter from the London Corresponding Society, stating, that they had opened a subscription for the defence of Mr. Paine, and that they wished six of their members might be associated with this society.

" Ordered, That the secretary be desired to inform the secretary of the London Corresponding Society, that this society receive their proposal with pleasure; and are willing to admit such six of the members whom they shall nominate, to be associated members of this society.

" Resolved, That a subscription be opened in this society, for the benefit of Mr. Thomas Paine, author of the Rights of Man.

Resolved, That the letter of the London Corresponding Society, and the two last resolutions, be published in the newspapers.

" Resolved, That 12,000 copies of Mr. Paine's letter to Mr. Secretary Dundas, be printed by this society, for the purpose of being transmitted to our correspondents throughout Great Britain; and that a committee be appointed to direct the same.

" Resolved, That the said committee consist of Mr. Tooke, Mr. Sturch, Mr. Chatfield, Rev. Mr. Joyce, Mr. Simmonds, and Mr. Frost.

" Resolved, That the subscription for the benefit of Mr. Paine, opened by this society, be paid into the hands of the treasurer of this society."

Mr *Bower*.—Here is the original minute of these proceedings. I will prove they are Mr. Tooke's hand-writing.

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

Mr. *Bower*.—Mr. Woodfall, whose handwriting do you believe this paper to be?

Mr. *William Woodfall*—I believe this to be Mr. Tooke's hand-writing.

Mr. *Tooke*.—Certainly it is.

[The rough draft of the Minutes was read.]

Mr. *Daniel Adams* called again.

Mr. *Bower*.—Look and see whether this book of accounts contains an account of your expenditure, for the use of the Constitutional Society?—Yes, it does.

There are some marginal notes there—" returned by the Oracle"—and other papers; are those minutes of your making?—They are.

Were they made because the papers were so returned from the publishers of these newspapers?—Yes, they declined inserting them in their papers.

Does this book contain a true account of your expenditures for the use of that society?—It does.

Mr. *Bower*.—Look at the entry of a meeting on the 22d of July, 1792; where was that meeting held?—At my house.

Is that an entry of a meeting that was held at that time?—It is.

And the names of the parties appearing there were persons present at some part of the evening?—Some part of the evening they were.

Mr. *Gibbs*.—What is this entry?

Lord Chief Justice *Eyre*.—It is an entry which was read last night, *de bene esse*, Mr. Adams not being here to prove it; by some means, in going through the general account, he missed that meeting.

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting held at the Crown and Anchor tavern, on Friday, 22d of June, 1792,

"PRESENT,

Mr. Frost in the chair,

"Dr. Edwards, Mr. C. Sharpe, Mr. Paine, Mr. J. H. Tooke, Dr. Maxwell, rev. Mr. Joyce, Mr. Bonney, Mr. J. Joyce, Lord Sempill, Mr. Sturch, Mr. Jennings, Mr. M, Bush, Mr. Bush, Mr. Rutt, Mr. Williams, Mr. Balmanno, Mr. Bakewell, Mr. G. Williams, Mr. Chatfield, Mr. Watts, Mr. J. Martin, Mr. Sinclair,

"Mr. Tooke reported that an information was filed against Mr. Paine,* for his publication of the Rights of Man.

"Ordered, That the subscription entered into for the benefit of Mr. Thomas Paine, be entered in a separate part of the book, and kept open for the members of this society.

"It was stated to the society that Mr. Favell having a great many similar concerns on his hands, wished to be excused from receiving the subscriptions on Mr. Paine's account."

"Resolved, That the subscriptions be received by Mr. Bonney, Mr. Paine's solicitor."

"Mr. Sturch reported that the committee, appointed to circulate Mr. Paine's letter to Mr. Dundas, had obtained an estimate for printing 12,000, which amounted to 25*l*."

"Ordered, That 12,000 copies of the said letter be printed, according to the estimate reported.

"Resolved, That the said committee be requested to meet on this day sevennight, at four o'clock, at this place, to consider of the best means of circulating the same."

Thomas Chapman, called again.—examined by Mr. *Garrow*.

Last night you gave an account of your printing the first part of Paine's Rights of Man—be so good as look at the second part—did you print any part of that by Mr. Paine's orders?—Not of this book.

You mean not that particular book?—Not that particular book.

Did you print up to any extent, and to what page of the second part of the Rights of Man for Mr. Paine—look at this copy, it is one I had occasion to show you a few days ago—did you print any part of that for Mr. Paine?—This is not the copy you gave me before: I did not print this particular book; I am certain this is not the book, because this is the third edition.

[Another copy shown to the witness.]

This is not mine.

Mr. *Garrow*.—You told us, in the course of your evidence in this cause, that you printed the first part of the Rights of Man for Mr. Paine?—Yes.

Did you see Mr. Paine upon the subject of any publication called the second part of the Rights of Man?—I did.

Did you print any part of that work for him?—I did.

Up to what page?—Up to page 128, I think.

When you had printed so far, did any thing pass which broke off the connexion, in business, between you and Mr. Paine?—Yes.

Do you know, from your own knowledge or from Mr. Paine, who was applied to to go on with that publication?—From particular circumstances I know that Mr. Bensley was applied to.

Do you know in point of fact, who took up the printing from where you left off?—I do not.

The book you have in your hand, appears to be published by Jordan?—It does.

Jeremiah Samuel Jordan, sworn.—examined by Mr. *Garrow*.

You are a bookseller?—Yes.

Do you recollect publishing the Rights of Man for Mr. Paine?—Yes.

Did you deliver any copies of that work, at any time, to Mr. White?—I do not recollect.

Did you ever see Mr. White?—Yes.

Did you ever see Mr. White upon the subject of the second part of the Rights of Man?—Yes.

Try to recollect yourself and tell me whether, upon that occasion, you did or not give Mr. White a copy of that work?—I cannot recollect—it is two years since—and I have not the least recollection upon the subject, whether I did or not.

Look at that book, and tell me whether you believe that to be one published by you?—I do not think this was published by me.

Look at it?—I do not believe it was published by me.

Why?—Because I see there is my own writing upon the title; it was bought from another person.

Have you any doubt that it was once in your possession?—It was in my possession undoubtedly.

But you did not print it?—No; nor I did not sell this book.

Did you buy it?—A person bought it for me.

* See the Trial of Thomas Paine, *antè*, Vol. 22, p. 357.

Whom did you receive it from?—From a Mr. Huntley, I see.

Who is he?—He lives, I believe, in Duke-street, Grosvenor-square.

As you did not sell it, perhaps you gave it away?—It is likely I did.

Seeing your own hand-writing upon it, and recollecting you had some conversation with Mr. White upon the second part of the Rights of Man, have you the least doubt, upon your oath, that you gave Mr. White that book?—I cannot say; I rather think I might.

Mr. *Garrow*.—Rather think you might!—I cannot be positive; I do not recollect the circumstance.

What is in your hand-writing?—"Bought of Mr. Johnson, February the 18th, 1792, by Mr. Huntley."

This is a memorandum of your own?—Yes.

Upon what occasion did you make that memorandum?—Because I was desirous to know whether Mr. Johnson had sold any.

That desire could not have led you to make that memorandum?—It was to be certain that Mr. Johnson had sold it.

Upon what occasion did you make that memorandum?—Because I understood my name was put to it, and therefore I did not expect that Mr. Johnson would sell them.

You thought Mr. Johnson would not sell the book with your name to it?—Yes.

Was your name put to it without your consent?—It was not.

What do you mean by Johnson not selling the book with your name to it?—He had my consent to put my name to them, but I thought he would not sell them with my name to them, as his own was not.

Your consent was given, then, to put your name to that?—Yes.

You say you did not publish that book—you do not call giving a book away publishing a book—publishing is selling?—Yes; though I published a great number of the books, I did not publish this, because I did not sell it.

Did you publish any of which this is a copy?—I did.

Have you any doubt that you published some of which this is one copy?—Not at all.

Whom did you publish them for?—For Mr. Paine.

Had you communications with Mr. Paine upon the subject of the publication?—Very little; I had some conversation with him.

Was there any profit?—Yes.

Was there any account to be rendered?—Yes.

Had you any account, upon the subject of that publication, with Mr. Paine, or with Mr. Tooke?—With Mr. Paine.

Do you know Mr. Horne Tooke?—Yes.

Did you ever see him upon the subject of the publication of that second part of the Rights of Man?—I do not recollect upon the second part.

Endeavour to recollect yourself?—When the action was commencing against me, I *went to Mr. Tooke.*

I suppose the prosecution you mean?—Yes; for publishing the second part of the Rights of Man—I went, according to orders, to Mr. Tooke.

Did you communicate to him that you came in consequence of orders?—Yes, in consequence of a letter which I received from Mr. Paine.

Did that letter direct you to go to Mr. Tooke?—I do not recollect that it did.

You told me you went, in consequence of an order, to Mr. Tooke?—In consequence of an order from Mr. Paine I went to Mr. Tooke's, expecting to meet Mr. Paine there.

Did you meet Mr. Paine there?—I did.

Was Mr. Tooke there too?—He was.

Recollect what passed when Mr. Paine and Mr. Tooke were present?—I cannot say; Mr. Tooke and I had a little dispute about my being timid, in consequence of the action.

Having a sort of dispute enables one to recollect the conversation more than when one has no dispute—What was the conversation?—Mr. Tooke seemed angry that I was timid and doubtful of leaving the action to the care of Mr. Bonney.

Had it been before that settled that Mr. Bonney should defend you upon that prosecution?—I saw Mr. Bonney at that time at Mr. Tooke's.

Who else was present?—Mr. King, that is an attorney I took with me; I was rather timid, and was not satisfied with Mr. Paine's proceedings; I was rather fearful; I therefore took the gentleman recommended to me, Mr. King, an attorney, as a witness. I really cannot recollect what passed.

Was any body else there?—Only Mr. Tooke and Mr. Bonney.

You were fearful, you say, of trusting Mr. Bonney with your defence?—I was rather fearful.

Can you recollect what Mr. Tooke said to you upon that subject?—He said Mr. Paine had employed Mr. Bonney for the defence; I might go home about my business, and rest satisfied that Mr. Bonney would take care of the business.

Can you say whether that book which you now hold in your hand is one of that edition, about which you had this conversation?—I cannot say it is.

Perhaps I am in an error as to the edition?—This is not the same edition.

Is it a copy of the same book?—Yes.

Mr. *Erskine*.—How do you know that this is one of the copies?—Because there is my own hand-writing on this book.

Mr. *Erskine*.—Is it printed by you?—I did not print it; I published it.

How do you know that is one?—Because there is my own writing upon it.

How did you know that it was a copy when you put your writing on it, you only guessed it then, I suppose, as you do now?—Yes.

Mr. *Garrow*.—Was this one of the copies of that work which you had for publication?

—No; this was never in my house, I believe, till I bought it.

Not that particular book?—No; not that particular book.

Jeremiah Samuel Jordan cross-examined by Mr. *Erskine.*

You went and bought that book?—I sent for it.

And when you had bought it you put your name upon it, as a proof that it was the book you bought?—Yes.

How do you know that the book you bought was the book which you yourself had published?—No; I cannot say that—this book never was in my house till I bought it—that I can swear to.

Mr. *Garrow.*—Look at this [*showing the witness another copy*] to use your own sense of the word *publish*, did you publish that?—I cannot say to this very book, I published a number of a book like this.

Had those which you and Johnson sold—published by you—your name upon them—Had the work the general appearance which this has?—Yes.

Was it printed in that manner?—Yes.

On that letter, of that size, and that sort of paper?—I cannot say so particularly, because the paper is rather mixed.

You are a considerable bookseller, I suppose?—I sell a number of books.

Do you know of any other of Mr. Paine's Rights of Man, the Second Part, that has passed through your hands as a bookseller, of that size and appearance, except those published by you?—I have seen another edition.

The cheap edition?—No; another octavo edition—" printed for D. Jordan, Piccadilly."

Have you seen any with J. S. Jordan, of that size, that were not published by you?—No; I have seen a small edition.

Mr. *Erskine.*—You know no more of that than you do of the other book?

Mr. *Garrow.*—We propose to read them upon this evidence.

Mr. *Erskine.*—It is not our object at all to argue it.

Lord Chief Justice *Eyre.*—It was read substantially upon the same evidence before.

Mr. *Erskine.*—All I say is, I do not think myself the least interested about it; I submit that it is not evidence.

Lord Chief Justice *Eyre.*—The question was mooted before, and the Court was of opinion, in respect of a book published through the town, that this was a reasonable evidence to go to the Jury, that it was the same book.

[Several Extracts from the Rights of Man, Part the Second, were read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 500.]

Mr. *Tooke.*—I believe I have likewise a right to desire an extract to be read out of that book—it will be a little preposterous, but not the less suitable to this sort of evidence—I beg that the preface may be read.

[The preface was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 503.]

[The following entries were read from the books of the Society for Constitutional Information:]

" At a Meeting at the Crown and Anchor tavern, Strand, Friday, 29th of June, 1792,

" PRESENT,

" Dr. Edwards in the chair,

" Lord Sempill, Mr. J. H. Tooke, Mr. Frost, Mr. Choppin, Mr. W. Sharpe, Mr. Bonney, Mr. Hull, Mr. Bush, Mr. Sturch, Mr. Sutton, Mr. Williams, Mr. Chatfield, Rev. Mr. Joyce, Mr. G. Williams, Captain T. Harwood, Mr. Sinclair, Mr. Fitzgerald, Mr. A. Bush, Mr. Balmanno, Mr. Watts, Dr. Kentish,

" Mr. Sturch reported from the committee appointed to consider of the best means of circulating Mr. Paine's Letter to Mr. Secretary Dundas, that they were of opinion the letter should be sent as follows:

" 250 Rev. Mr. Morris, Great Yarmouth.
" 100 Mr. Notcutt, Ipswich, Suffolk.
" 100 Rev. Mr. Rowe, Shrewsbury.
" 150 Mr. Sampson Kingsford, Canterbury.
" Sent to Mr. Joyce.
" 1200 Mr. Thomas Walker, Manchester.
" 1200 Mr. Goff, Norwich.
" 1200 Mr. Ashton, Sheffield.
" 200 Mr. Fox, Derby.
" 100 Mr. Logsden, Cheshunt, Herts.
" 100 Editor of the Leicester Herald, Leicester.
" 150 Rev. Mr. Edwards, Birmingham.
" Sent by coach.
" 200 Exeter.
" 100 Mr. Hazlett, Weymouth.
" Sent to Mr. Puller's, leather-seller, Long-Acre.
" 400 Mr. Audley, Cambridge.
" 200 Mr. Nash, Royston.
" Sent by Mr. Rutt, Thames-street
" 200 London Corresponding Society; sent to Mr. Hawes.
" 50 Aldgate Society; sent to the Mitre.
" 50 Constitutional Whigs; sent to Mr Conner.
" 6 Mr. Lambton; sent to him.
" 6 Mr. Whitbread; sent to him.
" 200 Friends of the People, Borough; sent to Mr Favell.
" 100 Mr. Bush; sent to him.
" 300 Mr. Pearson, and Mr. Balmanno sent to them.
" 400 Lord Sempill, Glasgow.
" 100 Mr. Thomas Francis, Birmingham.
" 100 Rev. Mr. Martin.
" 100 Rev. Mr. Joyce; lord Stanhope's.
" 100 Mr. Frost, Spring Gardens.
" 100 Rev. Mr. Potticary, Isle of Wight.

" 100 Rev. Mr. Toulmin, Taunton.
" 100 Rev. Mr. Corrie, Broomsgrove.
" 100 Rev. Mr. Wyche, Maidstone.
" 200 Mr. Rutt, Thames-street.
" 200 Rev. Mr. Lloyd, Sussex.
" 100 Rev. Mr. Mills, Portsmouth.
" Sent to Mr Sturch, and by him sent to the different persons.

" 700 Mr. Johnson, St. Paul's Church-yard, for different parts of the country.

" 8962

" Ordered, That the letter be circulated agreeable to the report of the committee."

" At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, 6th July, 1792,

" PRESENT,

" Mr. Sturch in the chair,

" Mr. Chatfield, Mr. J. Martin, lord Sempill, Mr. Frost, Mr. Simmonds, Rev. Mr. Joyce, Mr. Bonney, Mr. Brookbank, Colonel Keating, Mr. M. Pearson, Mr. W. Sharpe, Mr. Bush, Mr. Balmanno, Mr. Jennings, Mr. Hull, Mr. J. H. Tooke, Captain Tooke Harwood, Mr. Bakewell, Mr. Hind, Mr. G. Williams, Mr. Lockhart, Mr. J. Williams, Mr. Sutton, Mr. Watts, Mr. Walsh, Mr. Campbell, Mr. J. Adams, Mr. Barlow, Dr. Kentish,

" Read a letter from the London Corresponding Society, returning thanks for the communication of this Society, and forwarding the following names as proper persons to be elected associated members of this society: Mr. Hardy, Mr. Margarot, Mr. Richter, Mr. Littlejohn, Mr. Grant, and Mr. Gow."

Mr. *Maclean*.—I found this letter among Mr. Adams's papers.

[A Letter signed Thomas Hardy, secretary, addressed to Mr. D. Adams, dated July 6, 1792, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 489.]

Mr. *Lauzun*.—This is one of the books I found at Mr. Hardy's house.

Mr. *Law*.—It is one of the 200 which were transmitted by the Constitutional Society to Hardy.

[It was read.]

" Mr. Paine's Letter to Mr. Secretary Dundas.

London, June 6, 1792.

" Sir;—As you opened the debate in the House of Commons, May 25th,* on the proclamation for suppressing publications, which that proclamation (without naming any) calls wicked and seditious, and as you applied those opprobrious epithets to the works intituled RIGHTS OF MAN, I think it unnecessary to offer any other reason for addressing this letter to you.

" I begin, then, at once, by declaring, that I do not believe there are to be found in the writings of any author, ancient or modern, on the subject of government, a spirit of greater benignity, and a stronger inculcation of moral principles than in those which I have published. They come, sir, from a man who, by having lived in different countries, and under different systems of government, and who, being intimate in the construction of them, is a better judge of the subject than it is possible that you, from the want of those opportunities, can be;—and besides this, they come from a heart that knows not how to beguile.

" I will farther say, that when that moment arrives in which the best consolation that shall be left will be that of looking back on some past actions, more virtuous, more meritorious than the rest, I shall then with happiness remember among other things, I have written the RIGHTS OF MAN.—As to what proclamations, or prosecutions, or placemen, or place expectants—those who possess, or those who are gaping for office, may say of them, it will not alter their character, either with the world or with me.

" Having, sir, made this declaration, I shall proceed to remark, not particularly upon your own speech on that occasion, but on any other speech to which your motion on that day gave rise; and I shall begin with that of Mr. ADAM.

" This Gentleman accuses me of *not* having done the very thing that *I have done*, and which (he says) if I *had* done, he should not have accused me.

' Mr. Adam in his speech (see the Morning Chronicle of May 26) says, ' That he had well ' considered the subject of Constitutional Pub- ' lications, and was by no means ready to say ' (but the contrary) that books of science upon ' government, though recommending a doctrine ' or system different from the form of our con- ' stitution (meaning that of England) were fit ' objects of prosecution; that if he did, he ' must condemn (which he meant not to do) ' HARRINGTON for his Oceana, sir THOMAS MORE ' for his Eutopia, and HUME for his Idea of a ' Perfect Commonwealth. But (continued Mr. ' ADAM) the publication of Mr. PAINE was very ' different, for it reviled what was *most sacred* ' in the constitution, destroyed every principle ' of subordination, and *established nothing in* ' *their room*'*

" I readily perceive that Mr. ADAM had not read the *Second* Part of *Rights of Man*, and I am put under the necessity, either of submitting to an erroneous charge, or of justifying myself against it; and I shall certainly prefer the latter.—If then I shall prove to Mr. ADAM that, in my reasoning upon systems of go-

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* See this Debate in the New Parl. Hist. Vol. 29, p. 1476.

* New Parl. Hist. Vol. 29, p. 1487.

vernment in the second part of *Rights of Man*, I have shown, as clearly, I think, as words can convey ideas, a certain system of government; and that not existing in theory only, but already in full and established practice, and systematically and practically free from all the vices and defects of the English government, and capable of producing more happiness to the people, and that also with an eightieth part of the taxes, which the present system of English government consumes; I hope he will do me the justice when he next goes to the House to get up and confess, he had been mistaken in saying, that I had *established nothing, and that* I had *destroyed every principle of subordination*. Having thus opened the case, I now come to the point.

"In the Second Part of RIGHTS OF MAN, I have distinguished government into two classes or systems; the one the hereditary system; the other the representative system.

"In the First Part of *Rights of Man*, I have endeavoured to show, and I challenge any man to refute it, that there does not exist a right to establish hereditary government; or, in other words, hereditary governors; because hereditary government always means a government yet to come, and the case always is, that the people who are to live afterwards, have always the same right to choose a government for themselves, as the people had who lived before them.

"In the Second Part of *Rights of Man*, I have not repeated those arguments, because they are irrefutable; but have confined myself to show the defects of what is called hereditary government, or hereditary succession; that it must, from the nature of it, throw government into the hands of men totally unworthy of it from want of principle, or unfitted for it from want of capacity—JAMES the second is recorded as an instance of the first of these cases; and instances are to be found almost all over Europe to prove the truth of the latter.

"To show the absurdity of the hereditary system still more strongly, I will now put the following case: take any fifty men promiscuously, and it will be very extraordinary, if out of that number, one man should be found, whose principles and talents taken together, (for some might have principles, and others have talents) would render him a person truly fitted to fill any very extraordinary office of national trust. If then such a fitness of character could not be expected to be found in more than one person out of fifty, it would happen but once in a thousand years to the eldest son of any one family, admitting each on an average, to hold the office twenty years. Mr. ADAM talks of something in the constitution which he calls *most sacred*: but I hope he does not mean hereditary succession, a thing which appears to me a violation of every order of nature and of common sense.

"When I look into history and see the multitude of men, otherwise virtuous, who have died and their families been ruined, in defence of knaves and fools, and which they would not have done had they reasoned at all upon the system; I do not know a greater good that an individual can render to mankind than to endeavour to break the chains of political superstition. Those chains are now dissolving fast, and proclamations and prosecutions will serve but to hasten that dissolution.

"Having thus spoken of the hereditary system as a bad system, and subject to every possible defect, I now come to the representative system; and this Mr. ADAM will find stated in the Second Part of Rights of Man, not only as the best, but as the only *Theory* of government under which the liberties of a people can be permanently secure.

"But it is needless now to talk of mere theory, since there is already a government in full practice; established upon that theory, or in other words, upon the Rights of Man, and has been so for almost twenty years. Mr. PITT, in a speech of his some short time since, said, 'That there never did, and never could 'exist, a government established upon those 'rights, and that if it began at noon, it would 'end at night.' Mr. PITT is not yet arrived at the degree of a school boy in this species of knowledge. His practice has been confined to the means of *extorting revenue*, and his boast has been—*how much?* Whereas the boast of the system of government that I am speaking of, is not how much, but how little.

"The system of government purely representative, unmixed with any thing of hereditary nonsense, began in America. I will now compare the effects of that system of government with the system of government in England, both during, and since the close of the war.

"So powerful is the representative system; first, by combining and consolidating all the parts of a country together, however great the extent; and secondly, by admitting of none but men properly qualified into the government, or dismissing them if they prove to be otherwise, that America was enabled thereby totally to defeat and overthrow all the schemes and projects of the hereditary government of England against her. As the establishment of the revolution and independence of America is a proof of this fact, it is needless to enlarge upon it.

"I now come to the comparative effect of the two systems *since* the close of the war, and I request Mr. ADAM to attend to it.

"America had internally sustained the ravage of upwards of seven years of war, which England had not. England sustained only the expense of the war, whereas America sustained not only the expense but the destruction of property committed by *both* armies. Not a house was built during that period, and many thousands were destroyed. The farms and plantations along the coast of the country, for more than a thousand miles, were laid waste.

Her commerce was annihilated. Her ships were either taken or had rotted within her own harbours. The credit of her funds had fallen upwards of ninety per cent. that is, an original hundred pounds would not sell for ten pounds. In fine, she was apparently put back an hundred years when the war closed; which was not the case with England.

"But such was the event, that the same representative system of government, though since better organized, which enabled her to conquer, enabled her also to recover; and she now presents a more flourishing condition, and a more happy and harmonized society under that system of government, than any country in the world can boast under any other. Her towns are rebuilt, much better than before; her commerce is spread over the world, and her funds have risen from less than ten pounds the hundred to upwards of one hundred and twenty. Mr. PITT and his colleagues, talk of the things that have happened in his boyish administration without knowing what greater things have happened elsewhere, and under other systems of government.

"I next come to state the expense of the two systems, as they now stand in each of the countries; but it may first be proper to observe, that government in America is what it ought to be, a matter of honour and trust, and not made a trade of for the purpose of lucre.

"The whole amount of the nett taxes in England (exclusive of the expense of collection, of drawbacks, of seizures and condemnations, of fines and penalties, of fees of office, of litigations and informers, which are some of the blessed means of enforcing them) is, seventeen millions. Of this sum, about nine millions go for the payment of the interest of the national debt, and the remainder, being about eight millions, is for the current annual expenses. Thus much for one side of the case. I now come to the other.

"The expense of all the several departments of the general representative government of the United States of America, extending over a space of country nearly ten times larger than England, is two hundred and ninety-four thousand, five hundred and fifty-eight dollars, which, at 4*s.* 6*d.* per dollar, is 66,275*l.* 11*s.* sterling, and is thus apportioned:

"*Expense of the Executive Department.*

	£.	s.
"The office of the presidency, at which the president receives nothing for himself	5,625	0
"Vice-president	1,125	0
"Chief-justice	900	0
"Five associated justices	3,937	10
"Nineteen judges of districts and attorney-general	6,873	15

"*Legislative Department.*

	£.	s.
"Members of Congress at six dollars (1*l.* 7*s.*) per day, their secretaries, clerks, chaplains, messengers, door-keepers, &c.	25,515	0

"*Treasury Department.*

"Secretary, assistant, comptroller, auditor, treasurer, register, and loan-office keeper, in each state, together with all necessary clerks, office-keepers, &c.	12,825	0

"*Department of State, including Foreign Affairs.*

"Secretary, clerks, &c. &c.	1,406	5

"*Department of War.*

"Secretary, clerks, paymasters, commissioners, &c.	1,462	10

"*Commissioners for settling Old Accounts.*

"The whole board, clerks, &c.	2,598	15

"*Incidental and Contingent Expenses.*

For firewood, stationary, printing, &c.	4,006	16
Total	66,275	11

"On account of the incursions of the Indians on the back settlements, Congress is at this time obliged to keep six thousand militia in pay, in addition to a regiment of foot, and a battalion of artillery, which it always keeps; and this increases the expense of the war department to 390,000 dollars, which is 87,795*l.* sterling, but when peace shall be concluded with the Indians, the greatest part of the expense will cease, and the total amount of the expense of government, including that of the army, will not amount to one hundred thousand pounds sterling, which, as has been already stated, is but an eightieth part of the expenses of the English government.

"I request Mr. Adam and Mr. Dundas, and all those who are talking of constitutions, and blessings, and kings, and lords, and the Lord knows what, to look at this statement. Here is a form and system of government, that is better organized and better administered than any government in the world, and that for less than one hundred thousand pounds per annum, and yet every member of Congress receives, as a compensation for his time and attendance on public business, one pound seven shillings per day, which is at the rate of nearly five hundred pounds a year.

"This is a government that has nothing to fear. It needs no proclamation to deter people from writing and reading. It needs no political superstition to support it. It was by encouraging discussion, and rendering the press free upon all subjects of government that the principles of government became understood in America, and the people are now enjoying the present blessings under it. You

hear of no riots, tumults, and disorders in that country; because there exists no cause to produce them. Those things are never the effect of freedom, but of restraint, oppression, and excessive taxation.

"In America there is not that class of poor and wretched people that are so numerously dispersed all over England, and who are to be told by a proclamation, that they are happy; and this is in a great measure to be accounted for, not by the difference of proclamations, but by the difference of governments, and the difference of taxes between that country and this. What the labouring people of that country earn they apply to their own use, and to the education of their children, and do not pay it away in taxes as fast as they earn it, to support court-extravagance, and a long enormous list of placemen and pensioners; and besides this, they have learned the manly doctrine of reverencing themselves, and consequently of respecting each other; and they laugh at those imaginary beings called kings and lords, and all the fraudulent trumpery of courts.

"When placemen and pensioners, or those who expect to be such, are lavish in praise of a government, it is not a sign of its being a good one. The pension-list alone, in England (see sir JOHN SINCLAIR's History of the Revenue, page 6, of the Appendix) is one hundred and seven thousand four hundred and four pounds, *which is more than the expenses of the whole government of America amount to.* And I am now more convinced than before, that the offer that was made to me of a thousand pounds, for the copy-right of the Second Part of *Rights of Man*, together with the remaining copy right of the First Part, was to have effected, by a quick suppression, what is now attempted to be done by a prosecution. The connexion which the person who made that offer has with the king's printing-office, may furnish part of the means of inquiring into this affair, when the ministry shall please to bring their prosecution to issue. But to return to my subject—

"I have said in the Second Part of *Rights of Man*, and I repeat it here, that the service of any man, whether called king, president, senator, legislator, or any thing else, cannot be worth more to any country, in the regular routine of office, than ten thousand pounds per annum. We have a better man in America, and more of a gentleman than any king I ever knew of, who does not occasion even half that expense; for though the salary is fixed at 5,625*l.* he does not accept it, and it is only the incidental expenses that are paid out of it. The name by which a man is called is, of itself, but an empty thing. It is worth and character alone which can render him valuable, for without these, kings, and lords, and presidents, are but jingling names.

"But without troubling myself about constitutions of government, I have shown in the Second Part of *Rights of Man*, that an alliance may be formed between England, France, and America, and that the expenses of government in England may be put back to one million and an half, viz.

	£.
" Civil expense of government -	500,000
" Army - - - - - - - - -	500,000
" Navy - - - - - - - - -	500,000
	1.500,000

And even this sum is fifteen times greater than the expenses of government are in America; and it is also greater than the whole peace establishment of England amounted to about an hundred years ago. So much has the weight and oppression of taxes increased since the Revolution, and especially since the year 1714.

"To shew that the sum of 500,000*l.* is sufficient to defray all the civil expenses of government, I have, in that work, annexed the following estimate for any country of the same extent as England.

"In the first place, three hundred representatives, fairly elected, are sufficient for all the purposes to which legislation can apply, and preferable to a larger number.

"If then an allowance, at the rate of five hundred pounds per ann. be made to every representative, deducting for non-attendance, the expense, if the whole number attended six months each year, would be - - 75,000

" The official departments could not possibly exceed the following number with the salaries annexed, viz.

"	3	offices, at	10,000*l.* each, -	30,000
"	10	ditto, at	5,000*l.* each, -	50,000
"	20	ditto, at	2,000*l.* each, -	40,000
"	40	ditto, at	1,000*l.* each, -	40,000
"	200	ditto, at	500*l.* each, -	100,000
"	300	ditto, at	200*l.* each, -	60,000
"	500	ditto, at	100*l.* each, -	50,000
"	700	ditto, at	75*l.* each, -	52,500
			£.	497,500

"If a nation chose, it might deduct four per cent. from all the offices, and make one of twenty thousand pounds per annum, and style the person who should fill it, king, or majesty, or madjesty, or give him any other title.

"Taking, however, this sum of one million and an half, as an abundant supply for all the expenses of government under any form whatever, there will remain a surplus of nearly six millions and a half out of the present taxes, after paying the interest of the national debt; and I have shown in the Second Part of *Rights of Man*, what appears to me, the best mode of applying the surplus money; for I am now speaking of expenses and savings, and not of systems of government.

"I have, in the first place, estimated the poor rates at two millions annually, and shown that the first effectual step would be to abolish the poor-rates entirely (which would be a

saving of two millions to the house-keepers), and to remit four millions out of the surplus taxes to the poor, to be paid to them in money in proportion to the number of children in each family, and the number of aged persons.

" I have estimated the number of persons of both sexes in England of fifty years of age and upwards at 420,000, and have taken one third of this number, viz. 140,000, to be poor people.

" To save long calculations, I have taken 70,000 of them to be upwards of fifty years of age and under sixty, and the other to be sixty years and upwards; and to allow six pounds per ann. to the former class, and ten pounds per annum to the latter. The expense of which will be:

" Seventy thousand persons at 6*l.* per ann. - - - - - - - -	420,000
" Seventy thousand persons at 10*l.* per ann. - - - - - - -	700,000
	£. 1,120,000

" There will then remain of the four millions 2,880,000*l.* I have stated two different methods of appropriating this money. The one is to pay it in proportion to the number of children in each family at the rate of three or four pounds per ann. for each child; the other is, to apportion it according to the expense of living in different counties; but in either of these cases it would, together with the allowance made to the aged, completely take off taxes from one-third of all the families in England, besides relieving all the other families from the burthen of poor-rates.

" The whole number of families in England, allotting five souls to each family, is one million four hundred thousand, of which I take one-third, viz. 466,666, to be poor families who now pay four million of taxes, and that the poorest pays at least four guineas a year; and that the other thirteen millions are paid by the other two-thirds. The plan, therefore, as stated in the work is, first, to remit, or repay, as is already stated, this sum of four millions to the poor, because it is impossible to separate them from the others in the present mode of collecting taxes on articles of consumption; and secondly, to abolish the poor-rates, the house and window-light tax, and to change the commutation tax into a progressive tax on large estates, the particulars of all which are set forth in the work, and to which I desire Mr. Adam to refer for particulars. I shall here content myself with saying, that to a town of the population of Manchester, it will make a difference in its favour, compared with the present state of things, of upwards of fifty thousand pounds annually, and so in proportion to all other places throughout the nation. This certainly is of more consequence, than that the same sums should be collected to be afterwards spent by riotous and profligate courtiers, and in nightly revels at the Star and Garter tavern, *Pall-mall.*

" I will conclude this part of my letter with an extract from the Second Part of *Rights of Man*, which Mr. Dundas (a man rolling in luxury at the expense of the nation) has branded with the epithet of 'wicked.'

" By the operation of this plan, the poor laws, those instruments of civil torture, will be superseded, and the wasteful expense of litigation prevented. The hearts of the humane will not be shocked by ragged and hungry children, and persons of seventy and eighty years of age begging for bread. The dying poor will not be dragged from place to place, to breathe their last, as a reprisal of parish upon parish. Widows will have a maintenance for their children, and not be carted away, on the death of their husbands, like culprits and criminals, and children will no longer be considered as increasing the distresses of their parents. The haunts of the wretched will be known, because it will be to their advantage, and the number of petty crimes, the offspring of poverty and distress, will be lessened. The poor, as well as the rich, will then be interested in the support of government, and the cause and apprehension of riots and tumults will cease.—'Ye 'who sit in ease, and solace yourselves in 'plenty, and such there are in Turkey and 'Russia as well as in England, and who say 'to yourselves, *are we not well off?* have ye 'thought of these things? When ye do, ye 'will cease to speak and feel for yourselves 'alone.'—Rights of Man, Part 2, p. 136.

" After this remission of four millions be made, and the poor-rates and house window-light tax be abolished, and the commutation tax changed, there will still remain nearly one million and a half of surplus taxes; and as by an alliance between England, France, and America, armies and navies will, in a great measure, be rendered unnecessary, and as men who have either been brought up in, or long habited to those lines of life, are still citizens of a nation in common with the rest, and have a right to participate in all plans of national benefit, it is stated in that work (Rights of Man, Part 2), to apply annually 507,000*l.* out of the surplus taxes to this purpose in the following manner:

" To fifteen thousand disbanded soldiers, 3*s.* per week each (clear of deductions) during life - - - -	117,000
" Additional pay to the remaining soldiers per ann. - - - - - -	19,500
" To the officers of the disbanded corps, during life, the same sum of - - - - - - - - - - -	117,000
" To fifteen thousand disbanded sailors, 3*s.* per week during life -	117,000
" Additional pay to the remaining sailors - - - - - - - - -	19,500
" To the officers of the disbanded part of the navy during life -	117,000
	£. 507,000

" The limits to which it is proper to confine this letter, will not admit of my entering into farther particulars. I address it to Mr. Dundas, because he took the lead in the debate, and he wishes, I suppose, to appear conspicuous; but the purpose of it is to justify myself from the charge which Mr. Adam has made.

" This gentleman, as has been observed in the beginning of this letter, considers the writings of Harrington, More, and Hume, as justifiable and legal publications, because they reasoned by comparison, though in so doing they showed plans and systems of government, not only different from, but preferable to, that of England; and he accuses me of endeavouring to confuse, instead of producing a system in the room of that which I had reasoned against; whereas the fact is, that I have not only reasoned by comparison of the representative against the hereditary system, but I have gone farther; for I have produced an instance of a government established entirely on the representative system, under which much greater happiness is enjoyed, much fewer taxes required, and much higher credit is established, than under the system of government in England. The funds in England have risen since the war only, from 54*l.* to 97*l.*, and they have been down, since the proclamation, to 87*l.*, whereas the funds in America rose in the mean time from 10*l.* to 120*l.*

" His charge against me of 'destroying 'every principle of subordination,' is equally as groundless, which even a single paragraph from the work will prove, and which I shall here quote:

" 'Formerly, when divisions arose respecting governments, recourse was had to the 'sword, and a civil war ensued. That savage 'custom is exploded by the new system, and '*recourse is had to a National Convention.* 'Discussion, and the general will, arbitrates 'the question, and to this, private opinion 'yields with a good grace, and *order is pre-* '*served uninterrupted.*'—Rights of Man, Part 2, p. 173.

" That two different charges should be brought at the same time, the one by a member of the legislature for *not* doing a certain thing, and the other by the attorney-general for *doing* it, is a strange jumble of contradictions. I have now justified myself, or the work rather, against the first, by stating the case in this letter, and the justification of the other will be undertaken in its proper place. But in any case the work will go on.

" I shall now conclude this letter, with saying, that the only objection I found against the plan, and principles contained in the Second Part of *Rights of Man* when I had written the book, was, that they would beneficially interest at least ninety-nine persons out of every hundred throughout the nation, and therefore would not leave sufficient room for men to act from the direct and disinterested principle of honour; but the prosecution now commenced has fortunately removed that objection, and the approvers and protectors of that work now feel the immediate impulse of honour, added to that of national interest. I am, Mr. Dundas, not your obedient humble servant, but the contrary,

" THOMAS PAINE."

Mr. *Law*.—On the 6th of July there is an entry of the six members of the Corresponding Society, who were proposed to be associated members, and they were elected on the 13th.

[The entry of the 13th of July read.]

[*Vide* Hardy's trial, *antè*, Vol. 24, p. 490.]

Mr. *Attorney General*.—I am now going to read a letter from Mr. Hardy to Mr. Tooke, found among Mr. Tooke's papers, giving him an account of the progress of the London Corresponding Society.

James Thornton called again.

Mr. *Law*.—You are a clerk, I believe, in the police-office, in Marlborough-street.—Yes.

Look at this letter, is it marked by you?—Yes.

Where did you find it?—In Mr. Horne Tooke's house.

[It was read.]

" Sir;—I will esteem it a particular favour if you can recollect to bring in your pocket, on Friday, that letter which I lent to you about three or four weeks ago. I am rather at a loss to write to that gentleman, without being in possession of his letter. We keep still increasing in number, knowledge, and stability; and we are about to plant two more colonies next week, which will make the 11th and 12th division. The situation promises to be very fertile. I am, sir, with great respect, your most humble servant,

" THOMAS HARDY."

" July 24th, 1792, No. 4, Taylor's-buildings, Chandos-street, Covent-garden."

Mr. *Attorney General*.—I am now going to give in evidence a letter, dated the 8th of August, 1792, from Thomas Hardy to Mr. Tooke, found in possession of Mr. Tooke, desiring him to revise an address of the London Corresponding Society, and desiring to have his opinion whether it was proper he should send a copy to the secretary of the Constitutional Society.

John Thompson called again.

Mr. *Law*.—Where did you find this letter?—In Mr. Horne Tooke's house, at Wimbledon.

[It was read.]

" Sir;—I take the liberty of sending you a proof copy of the address to the public, from the London Corresponding Society, and hope

it will merit your attention, and in some measure your approbation—shall be exceedingly happy to be favoured with your opinion of it before we print it, which we expect to do before Monday.

"Is it proper to send a copy to the secretary of the London Constitutional Society next week, as that society does not meet before the last Friday of September. I am, sir, with great respect, your most obedient, humble servant, "THOMAS HARDY."

"August 6th, 1792, No. 4, Taylor's-buildings, Chandos-street, Covent-garden."

Addressed "*John Horne Tooke*, esq."

John Thompson cross-examined by Mr. *Tooke*.

Where did you find that letter?—I cannot exactly say in what part of the house I found it.

Did you find it yourself, or did any other person give it you?—I picked it out myself; I showed it to Mr. Ford, and Mr. Ford told me to mark it.

Did you attend Mr. Ford in search of my papers?—I did.

And you did not pick them out, but he did?—He sat at the table writing; I picked them out and gave them to him, and he looked them over.

Who else was there?—Thornton.—What I picked out and gave him, and he thought necessary to mark, I marked them.

Did you take all the papers, that were marked, in my house?—No I gave them to Mr. Ford; when he looked them over, he gave them to me.

There was another witness called just now to prove some other paper or letter found in my house; it is not that I want to contest their being found in my house; but what I wanted to know is, how one gentleman comes to have a warrant to take my papers, and then a number of persons are called to prove they were there.—Had you a warrant to take my papers?—No.

I want to know what this kind of seizure of papers is; it is of some consequence to know, because, if a troop of police officers are let into a man's house, the papers that are produced will not be the papers that were found in the house?—Mr. Frost was there, and saw every thing that was taken, and so was Mr. Vaughan.

Did they take any of the papers?—No.

Can you tell me how many papers were taken?—No.

You were not the only man that took papers?—No; Mr. Thornton had some.

Was there any body besides you and Thornton who had any of my papers?—No other persons but Mr. Thornton and myself, that I know at present.

Mr. *Tooke*.—There are more papers in my house than a man could read in a year.

Mr. *Attorney General*.—When you and Thornton took the papers, you say, Mr. Frost and Mr. Vaughan were present?—They were.

Did they see all the papers that were taken?—I am pretty certain Mr. Vaughan took a list of all the papers—they were all put down upon a paper.

Mr. *Tooke*.—You belong to the police office?—I am one of the clerks at the office in Whitechapel.

And can you swear that Mr. Vaughan saw all the papers that were taken?—There were two lists taken, one by Mr. Ford, the other by Mr. Vaughan.

I ask you, whether you suppose Mr. Vaughan to be possessed of such senses, as can determine what another man does? or have you such senses that you can tell what he saw?—All the papers I took I presented to Mr. Ford, and Mr. Vaughan, sitting together, and I understood them all to be taken down by Mr. Vaughan; there was then another copy made of that, which was given to Mr. Vaughan by Mr. Ford I believe.

Mr. *Attorney General*.—Perhaps you know whether Mr. Vaughan and Mr. Frost were there by appointment?—I understood so.

You do not know the fact?—No.

You had no authority but a warrant?—No.

And that was granted in the usual way?—I cannot say; I do not understand the practice.

Mr. *Attorney General*.—I am now going to read a paper likewise found in the custody of Mr. Tooke, which is a letter from Margarot, who became one of the associated members, to Mr. Tooke, desiring his advice and opinion about an address to the National Convention of France, dated the 15th of September 1792.

Mr. *Attorney General to Thornton*.—Where did you find that paper?—In Mr. Horne Tooke's house, at Wimbledon.

[It was read.]

"M. Margarot wishes to submit to Mr. Horne Tooke's consideration, whether a plan might not be adopted for obtaining the assent of all the different societies throughout the nation, to an animated (but safe) declaration, assuring the French that we entertain the most friendly dispositions, &c. &c. towards them; and that we will, to the utmost of our power, discountenance all hostile attempts on the part of the ministry, should the latter be base enough to forfeit the nation's pledged faith of neutrality.

"M. M. conceives such a measure will prove more useful than a partial, and, perhaps, comparatively speaking, an inconsiderable subscription, which would, however, be no ways impeded thereby: a similar declaration would certainly quiet their jealousies with regard to the English; and would encourage them in their arduous struggle, while the numbers of well-wishers to their cause, who might come forward here with only their signatures to the declaration, would give a most severe check to all open or even under handed ministerial attempts.

"Saturday, 15th September, 1792,
No. 10, High-street, Marybone."

Addressed "—*Horne Tooke*, esq."

Mr. *Attorney General.*—The next is a letter dated the next day, September 16th, 1792, from Mr. Hardy to Mr. Tooke, upon the same subject, found in Mr. Tooke's house at the same time.

Mr. *Thornton.*—I found this paper in Mr. Tooke's house.

James Thornton,—cross-examined by *Mr. Tooke.*

Did you read that letter which has just now been read?—I think not.

But you are not sure?—Some I carelessly looked over.

If you looked that over carelessly, when you read that part recommending an attempt to quiet the jealousies of the French, did you not think that the administration of this day would have been very glad if it had succeeded?—I have no recollection, at present, whether I did read it.

Mr. *Bower.*—What the witness thought at the time, I object to his being asked, for the sake of common precedent—it is a great deal too much to ask a witness who has seized papers, what he thought, upon looking at those papers, might be the opinion of other people; it has not the colour or semblance of a question, and that the prisoner must know perfectly well.

Mr. *Tooke.*—If I am wrong I will take the first hint of a correction from your lordship; but I hope you will think that a man whose papers are so seized has a right to make a little inquiry after their contents; I protest I forgot them a great while ago, they are letters found in my house sent from other persons, and it not being declared whether I did any thing in consequence of those recommendations—I believe I have rather made an observation out of the course of examination—

Lord Chief Justice *Eyre.*—It is an observation put into the shape of a question.

Mr. *Tooke.*—I believe it was so—it struck me that the administration might now possibly wish that those men who wished to quiet the jealousies of the French had succeeded—but it struck me at the moment that it was improper.

[The letter was read.]

"Sir;—Mr. Margarot would be glad to know your opinion of that proposition he has submitted to your judgment. I think with him that it would have a good effect, at the same time the subscription to go on as it now does, ten or twenty thousand signatures would have more weight than as many thousand pounds, for ten men might subscribe that sum.—I am, sir, with great respect, your most humble servant,

THOMAS HARDY."

"September 16, 1792, No. 9, Piccadilly."

Addressed "*John Horne Tooke*, esq. Richmond Buildings."

[The following entries were read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, September 28th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 499.]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, on Friday, October 5th, 1792."

[*Vide* Hardy's Trial, *antè* Vol. 24, page 509.]

Mr. *Attorney General.*—Your lordship observes, that by the entry which was made upon the 28th of September, it is resolved, that the secretary shall express the thanks of the Constitutional Society to the London Corresponding Society for their communication, and acquaint them that this society do very highly approve of their intention.—I am now going to prove a letter from Mr. Adams, the secretary of the former society, to Mr. Hardy the secretary of the other society, which conveys that approbation.

Mr. *Lauzun.*—This is one of the letters I found in Mr. Hardy's house.

[The letter was read.]

"Dear sir;—Your letter of the 21st September, was read to the Society for Constitutional Information last Friday, and I am desired to express their thanks to the London Corresponding Society for their communication, and to acquaint them that the society do very highly approve of their intention.—I am, dear sir, your much obliged, humble servant,

"D. ADAMS, secretary."

"Tooke's-court, 3d October, 1792."

"Mr. Hardy, secretary to the London Corresponding Society."

Mr. *Attorney General.*—Your lordship recollects, that in a letter which has been read in evidence, dated the 8th of August, Mr. Hardy says he had sent a proof copy of the address of the London Corresponding Society. I now produce the address of the Corresponding Society, dated the 6th of August, which was found in the possession of Mr. Hardy.

Mr. *Lauzun.*—This is one of the pamphlets I found in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 382.]

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, 12th October, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, pp. 510, 521.]

Mr. *Attorney General.*—Here is the original letter, signed Margarot and Hardy, of

which the letter that has now been read is a copy.—Mr. Maclean, did you find this paper?

Mr. *Maclean.*—I found this paper at Mr. Adams's.

Mr. *Attorney General.*—It is exactly the same.

[The following entries were read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, on Friday, October 19th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 523.]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, October 26th, 1792."

[*Vide* Hardy's Trial, *antè* Vol. 24, p. 525.]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, November 2d, 1792."

[*Vide* Hardy's Trial, *antè* Vol. 24, p. 526.]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, November 9th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 526.]

Mr. *Attorney General.*—I will now produce a letter from Barlow and Frost, who appear to have gone over to France for the purpose of presenting this address, stating what had passed on presenting it, between them and the president of the National Convention.

Mr. *Maclean* I found these papers in the possession of Mr. Adams.

[Read by the clerk of the court.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 529.]

Mr. *Attorney General.*—I am now going to read their address to the National Convention.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 529.]

Mr. *Attorney General.*—This paper is the translation of the president's answer.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 530.]

Mr. *Thornton.*—I found these two papers in Mr. Horne Tooke's house at Wimbledon.

(To Mr. William Woodfall.)—Whose hand-writing do you believe these to be?—Both of them Mr. Tooke's hand-writing.

Mr. *Tooke.*—They are my hand-writing.

[They were read.]

"Translation* of the draught of an Address to the President of the French Convention."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 539.]

"Draught of a Letter from Mr. Tooke to the Mayor of Paris."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 538.]

One of the Jury.—What is the date of that letter?

Mr. *Shelton.*—It has no date.

Mr. *Erskine.*—But it was before the commencement of the war, because it was before Mr. Frost went to Paris.

Mr. *Solicitor General.*—Here is the answer to it, which will best show the date.

Mr. *Thornton.*—I found this paper in Mr. Horne Tooke's house at Wimbledon.

(To Mr. William Woodfall.)—Here is a memorandum of when this paper was received—Whose hand-writing is that?—The words "Received at Wimbledon, Wednesday, October 9th," I take to be Mr. Horne Tooke's.

Mr. *Tooke.*—Yes, they are mine.

[A letter, signed "Petion," addressed to the "Society of the Friends of the Revolution," dated "6th October, first year of the French Republic," read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 538.]

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, December 14th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24. p. 531.]

Mr. *Solicitor General.*—*(To Mr. Maclean.)* Where did you find that paper?—In the possession of Mr. Adams.

Mr. *Solicitor General.*—This is a letter from the Society of the Friends of Liberty and Equality, sitting at Laôn, to the Society for Constitutional Information.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 533.]

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Friday, 21st of December, 1792,

"PRESENT,

"Mr. Reader in the chair,

"Mr. Sharpe, Mr. Hull, Mr. Bonney, Mr. John Martin, Mr. Parkinson, Mr. Holcroft, Mr. H. Tooke, Mr. Williams, Mr. Sinclair, Mr. Hardy, Mr. Gerrald, Mr. Kydd, Mr. Chatfield, Mr. Fitzgerald, Mr. Banks, Mr. Wills, Mr. Jennings, Mr. G. Williams, Mr. Wardle, Mr. White, Mr. Bailey, Mr. Cooper, Mr. Moore, lord Sempill, Mr. Turnbull.

* "Mr. Huskisson was called and desired to look at the French copy, while the clerk read the translation." *Blanchard's Edit.* See Mr. Huskisson's examination on the trial of *Thomas Hardy, antè*, Vol. 24, p. 531.

" Read the following letter from the Society of the Friends of Liberty and Equality at Maçon, in the department of the Saone and the Loire.*

" Ordered, That the same be entered in the minutes of this society.

" Resolved, That Mr. H. Tooke, Mr. Moore, Mr. White, lord Sempill, Mr. Gerrald, Mr. Kydd, Mr. Reader, Mr. Fitzgerald, and Mr. Bonney, be a Committee for Foreign Correspondence.

" Resolved, That the letter from the said society be referred to the Committee of Foreign Correspondence.

" Ordered, That the proceedings of the Committee of Foreign Correspondence be entered in a separate book.

" Resolved, That the said committee meet at this place at half past three o'clock on the day of the next meeting of the society."

Mr. *Attorney General.*—I am now going to an entry of the 5th of October, 1792, which states, that a letter was received from Mr. Joel Barlow, communicating to the Constitutional Society his book, intituled, " A Letter to the National Convention of France."

Mr. *Erskine.*—That was also read upon Mr. Hardy's trial.

Mr. *Attorney General.*—It was.

[The following entries were read from the books of the Society for Constitutional Information:]

" At a Meeting of the Society, October 5th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 509.]

" At a Meeting of the Society, October 12th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 510.]

Mr. *Joseph Johnson* sworn.—Examined by Mr. *Bower.*

You are a bookseller?—Yes.

Be so good as look at that book, which was shown to you last week; did you print and publish that?—I printed a book with this title.

That book which you saw last week?—I cannot tell whether it is the same, or not; it has the appearance of it.

Did you publish a book of that kind, and whom did you publish it for?—I printed it at the request of the author.

By the author, do you mean Joel Barlow?—Yes.

You were employed by him as his printer?—Yes.

And you believe that to be the book you printed?—It has all the appearance of it; I could not tell without I read it.

Do you know of any other book of that appearance, besides that which was published by yourself?—No.

[Extracts read from a Letter to the National Convention of France, on the defects of the Constitution of 1791, and the extent of the amendments which ought to be applied; by Joel Barlow, esq. author of Advice to the Privileged Orders.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 512.]

[The following entry was read from the book of the Society for Constitutional Information:]

" At a Meeting of the Society held at the Crown and Anchor, Friday, October 19th, 1792."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 523.]

Mr. *Attorney General.*—This your lordship observes is an approbation of that letter, and an order for it to be published. Mr. Adams, in his account, charges for the publication of Joel Barlow's letter in the different newspapers.

The next is a letter from persons styling themselves the Editors of the Patriot.

Mr. *Maclean.*—I found this among Mr. Adams's papers.

[It was read.]

" *Sheffield, 15th October, 1792.*

" Sir;—In consequence of a hint from your society, that small and cheap publications would be of great benefit towards enlightening the public mind in political information, we some time ago set on foot a periodical work, the Patriot, and we took the liberty about three months since to transmit you such numbers as were then published, entreating your perusal of them, and after that your candid opinion as to the matter contained therein, and any hints which you might please to think would add to its public utility, and contribute to its improvement; considering ourselves as acting upon principles alone, joined to an ardent desire to forward and promote the interests of the great cause of freedom, and that we were doing what your society had expressly recommended, we flattered ourselves we might make this request, and that it would not have been thought unreasonable; and as we conveyed our sentiments in terms of the greatest respect and deference to the superiority of abilities which you have to boast, being united in your honourable body, we thought that the common civility which, on such occasions, actuates men, even *differing in opinions*, and at variance with each other, would have insured us an answer; we have been deceived, our efforts to serve the cause appear to your society, it would seem, deserving no other notice than silence and contempt; this we are something surprised at, as in a cause *like this*, a good *intention* only *we* think deserves to be commended. We are perfectly aware of, and rejoice to reflect on the splendid talents which ornament your society, and are convinced that any thing we can write must appear to some amongst

* See the Trial of Thomas Hardy, *antè*, Vol. 24, p. 533.

you very trifling and puny efforts; but to do our best is as much as is allotted to man, *non omnia possumus omnes*, and we cannot forget, while we contemplate the magnificent splendor of the sun, that, when deprived of his enlivening light, we find ourselves highly indebted to the small and feeble glimmering of a taper; we avowed that our work was intended to impress its contents on the great body of the people; we pretended not to any originality farther than the work itself, dedicated solely to purposes never before attempted; and as to superior excellence, we had not the vanity to lay claim to any, we looked for no compliments, we only wished for advice, and certainly approbation, where it might be deemed by you to be due, would have been highly gratifying to us.

"Disappointed in all our expectations, it may perhaps appear odd and extraordinary that we should trouble you again; feeling as men, and we hope possessed of the laudable and proper spirit of *gentlemen*, did we act on the impulse of punctilio and etiquette only, we should in all likelihood consider our pens as tied up, but as volunteers in the most glorious cause which can animate and actuate the minds of men, we shake off the feeble fetters of ceremonious exactness, and once more present ourselves to your notice, as zealous supporters of those rights of man, of which we are happy to see your society so worthily placed at the head.

"Within a few days past we have received a letter from the secretary of a society intended to be established at Stockport, which we think it necessary to submit to your inspection, and have accordingly sent it herewith; your society will find thereby what unjustifiable means are adopted by the enemies to reform, and the friends and tools of arbitrary power, to prevent the increase of those societies, and to crush and annihilate our efforts in their bud; we thought it prudent and necessary to answer the letter immediately, and to give them such encouragement as our feeble talents will permit; that we also submit to your consideration in the copy of the letter to Mr. Andrews, which accompanies his to us; we cannot help reflecting that unless the friends to reform stand by and succour each other, they cannot hope for success; and we therefore indulge ourselves with the hope, that your society will think this society at Stockport deserving their attention, and give them their sanction, advice, and support.

"Having done this, we have satisfied our consciences, and hasten to conclude, only requesting leave to add, that in addressing our last letter to your society, we protest that we had no idea we should give offence; we are thoroughly convinced nothing but the most perfect and general unanimity can ever entitle the friends of freedom to expect success against the formidable host of enemies with which they have to contend; under this conviction we have caused our feelings as men to give place to our duties as *citizens*; one very future occasion that may offer, we shall take care to give your society the earliest information of any matter arising within our knowledge, which we think may be important and necessary for them to be made acquainted with, for the general good; at the same time assuring you, that from ourselves, and on our own account, you need not be under apprehension of any farther intrusion; we would indeed ask pardon for that we have already made, only that we conceive, according to every fair criterion of judgment, we may justly say the crime has carried the punishment along with it. We are, &c. with great respect, fellow-citizens, your's most sincerely as such,

"THE EDITORS OF THE PATRIOT."

Addressed, "D. Adams, esq. Secretary to the Society for Constitutional Information, Tooke's court, Chancery-lane, London."

Mr. *Bower*.—We will now read a letter that was inclosed in the letter which has been just read.

Mr. *Maclean*.—I found this among Mr. Adams's papers.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 825.]

[The following entries were read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, November 2, 1792,

"PRESENT,

"Mr. Frost in the chair,

"Mr. Tooke, Mr. Boseville, Mr. Walsh, Dr. Edwards, Mr. Bonney, Mr. J. Martin, Mr. Sturch, Mr. Sharpe, Mr. Geddes, colonel Keating, Mr. Rae, Mr. Bakewell, Mr. Joyce, Mr. Barlow, Mr. Johnson, Mr. Sinclair, Mr. Holcroft, Mr. Williams, Mr. Hind, Mr. Tuffin, Mr. M. Bush, Mr. G. Williams, Mr. Aspinal, Mr. Fitzgerald.

"The secretary read the letter from the editor of the Patriot, at Sheffield.

"Resolved, That a committee of correspondence be appointed to consider of and prepare answers to all such letters as are, or may be sent to this society.

"Resolved, That Mr. Sturch, Mr. Joyce, Mr. Adams, Mr. Frost, Mr. Bonney, and Mr. Holcroft, compose the said committee.

"Ordered, That the two letters sent to this society, from the editor of the Patriot, at Sheffield, be referred to the said committee.

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 9th November, 1792,

" PRESENT,

" Lord Sempill in the chair,

" Mr. Bosville, Mr. Rae, Mr. Hull, Mr. Sharpe, Mr. Jennings, Mr. Sutton, Mr. Frost, Mr. Tooke, Mr. Sturch, colonel Keating, Mr. Holcroft, Mr. Barlow, Mr. Tuffin, Mr. Sinclair, Mr. Margarot, Mr. Watts, Mr. Richter, Mr. Littlejohn, captain Perry, Mr. John Martin, Mr. Banks, Mr. Williams, Mr. Geddes, Mr. Fitzgerald, Mr. Parkinson, Mr. Gerrald, Mr. Rickman, Mr. Bush, jun. Mr. Lockhart, Mr. Moore.

" Read the report of the committee of correspondence.

" A letter was produced by them, and read, in answer to the editors of the Patriot, to which an amendment was moved, and seconded, and the question being put thereon, was carried in the affirmative, and ordered that the secretary send the said letter to the editor of the Patriot, at Sheffield, signed by him in the name of the society."

Mr. *Maclean.*—I found this paper in the possession of Mr. Adams.

(*To Mr. William Woodfall.*)—Do you believe any part of this letter to be of Mr. Tooke's hand-writing?—The words " attend those efforts," I believe to be Tooke's writing.

Mr. *Tooke.*—Those words are mine.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 329.]

Mr. *Bower.*—Having before proved that the London Corresponding Society sent members to be associated with the London Constitutional Society, who were accordingly admitted and of which members Mr. Hardy, the secretary of the London Corresponding Society, was one. I am now going to read a letter from Stockport to Hardy, as secretary of the London Corresponding Society.

(*To Mr. Lauzun.*)—Where did you find that paper?—I found it in Mr. Hardy's house.

[Letter from Stockport, signed P. W. Frost, to Mr. Thomas Hardy, indorsed, " Stockport, Friends of Universal Peace and the Rights of Man, received 27th of September, 1792, answered 11th of October, and sent a copy of the address," read.]

Mr. *Erskine.*—Answered by Mr. Hardy?

Mr. *Bower.*—Yes.

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 388.]

Mr. *Bower.*—We are now going to read a letter from Norwich.

Mr. *Lauzun.*—I found these papers in Hardy's house.

[Letter from M. Margarot to Mr. Joseph Heamer, secretary to the Friends of Universal Peace and the Rights of Man Society, Stockport, dated London, October 11th, 1792, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 389]

[Letter from Norwich to Thomas Hardy, signed George Knapp, Isaac Saint, and Anthony Caddewould, dated November 11th, 1792, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 392.]

[Letter from M. Margarot, in answer to the last, dated November 26th, 1792, produced.]

Mr. *Erskine.*—This has been read before.

Mr. *Bower.*—It has.

Mr. *Erskine.*—I wish your lordship to understand that I do not mean what I am now saying, in the shape of an objection. This paper was read against Mr. Hardy, because it was found in his possession; and it is a draft of an answer which he, Mr. Hardy, was supposed to have meditated to send to a letter written to him: but upon what principle of law, of evidence, or of common sense, it can be read upon this occasion, I know not.

Lord Chief Justice *Eyre.*—It was read as evidence against Mr. Hardy.

Mr. *Erskine.*—He is not now before the Court—he is acquitted.

Lord Chief Justice *Eyre.*—Certainly he is not; but as a person concerned in this transaction, the guilt of which is imputed to the prisoner at the bar.

Mr. *Erskine.*—Can your lordship consider this as any guilt as connected with a person now acquitted?

Lord Chief Justice *Eyre.*—His acquittal of his share makes no difference in the transaction; the jury have thought it right to say he was not guilty: this goes to the whole general plan of the evidence; there are two distinct parts, one to the general plan, and the other to the particular facts.

Mr. *Erskine.*—I perfectly understand the Court: I am satisfied.

[Letter signed M. Margarot read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 393.]

Mr. *Bower.*—This seems to finish the written evidence, we offer, of the year 1792; and your lordships will understand we are now going to read an entry from the book of the Society for Constitutional Information, on the 18th of January, 1793.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 540]

[A rough draft of the above entry shown to Mr. William Woodfall.]

Mr. *Perceval.*—In whose hand-writing are these words:—" A member of the National Convention of France being considered by us as—"?—I believe them to be Mr. Horne Tooke's.

Mr. *Tooke.*—That is my hand-writing.

[The following entries were read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society held at the Crown and Anchor tavern, Friday, Jan. 25th, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 540.]

"At a Meeting of the Society held at the Crown and Anchor tavern, Strand, Friday, February 1st, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 540.]

Joseph Deboffe, sworn.—Examined by Mr. *Law*.

Did you receive these three papers as the Moniteurs of the fourth, sixth, and seventh of January, 1793?—Yes.

Mr. *Erskine*.—They are the same we had upon the last trial, I suppose?

Mr. *Bower*.—They are.

Deboffe.—These are the original papers, which were imported from Paris, as I expressed when I was here before.*

Shortly after the time when they respectively bear date?—They were received within five or six days, I suppose, of the Paris date; they were imported as I mentioned before.

Joseph Deboffe cross-examined by Mr. *Tooke*.

These three papers you sold?—I cannot ascertain whether they came out of my shop, or not; but, at the same time, I can ascertain that they are the real Paris papers.

Have you any of the Moniteur of this date?—I have had a great many.

Did you sell a great many?—I have sold as many as I had regular subscribers for: I was not in the habit of selling papers loosely, but such noblemen and gentlemen as subscribed regularly, I had the honour of serving them with regularity. I have sold some hundreds in regular connexions, from the beginning of the Moniteur, down to the time when the communication was totally stopped.

How long have you been out of prison?—Me in prison!

I ask you?—Never in my life.

Have not you been prosecuted?—Never in my life.

Nor threatened to be prosecuted?—No.

When were you first applied to to come here upon this occasion?—I was subpœnaed to appear here.

Were not you frightened?—I did not know what I should be subpœnaed for.

But you thought you had done no crime?—My conscience is clear; I had nothing to reproach myself with.

You thought it a safe thing to sell these papers?—Yes, while the Post-office sold them, and several of the shops sold them, as well as me, having paid the regular duty at the Custom-house.

And others did the same?—Yes.

And you never were afraid of the consequence at all?—I was never. I looked upon it the law was to save me the same as every body else.

That the law would protect you?—Not me in particular; if it would protect me, it would protect others; therefore, the people of the Post-office should be punished.

Mr. *Tooke*.—You are a very honest man.

Mr. *William Woodfall*.—I beg pardon for a moment; as the witness is a foreigner here, I beg leave, as an *amicus curiæ*, to say that he lived formerly with me, and is, as Mr. Tooke has last denominated him, a very honest man indeed.

[Mr. Huskisson delivered into Court English translations of the extracts from the Moniteurs produced.]

Mr. *Erskine*.—This is not reading any thing out of the books of the Constitutional Society.

Lord Chief Justice *Eyre*.—They are passages in these papers which that society recommended for perusal.

Mr. *Attorney General*.—And they resolved that that resolution should be published in the newspapers.

[English translations of extracts from the speeches of Barrère, St. André, and Rowland, were read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 542.]

[The following entries were read from the book of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, at the Crown and Anchor tavern, Friday, 15th March, 1793,

"PRESENT,

"Captain Tooke Harwood in the chair,

"Mr. Balmanno, Mr. Kydd, Mr. Tooke, Mr. Martin, Mr. Fazackerly, count Zenobio, Mr. Sharpe, Mr. J. Williams, Mr. Bonney, Mr. Symonds, Rev. Mr. Joyce, Mr. Holcroft, Mr. Swainson, Mr. Banks, lord Sempill, Mr. Wills, Mr. Parkinson, Mr. Bailey, Mr. Frost, Mr. Williams.

"Mr. Gay, of Duke-street, St. James's, was proposed by Mr. Tooke, and seconded by Mr. Bonney."

Mr. *Tooke*.—Is there a Christian name to that Mr. Gay?

Mr. *Shelton*.—There is no Christian name.

"Resolved, That the thanks of this society be given to Joel Barlow and John Frost, for their conduct in the presentation of the address of this Society to the National Convention of France; and that Mr. Frost be assured that our regard for him is not lessened but increased by the prosecutions and persecutions which his faithful and due discharge of that commission may bring upon him.

"Ordered, That this resolution be published in the newspapers."

"At a Meeting of the Society for Consti-

* See the examination of this witness on the Trial of Thomas Hardy, *antè* Vol. 24, p. 541.

tutional Information, held at the Crown and Anchor tavern, Strand, Friday, 22d March, 1793,

" PRESENT,

" Mr. Symonds in the chair,

" Mr. Frost, Mr. Hull, count Zenobio, Mr. Tooke, Mr. Wills, lord Sempill, Mr. Bonney, Mr. Kydd, Mr. Satchell, Mr. John Martin, Mr. Ansell, Mr. Holcroft, Mr. Balmanno, capt. T. Harwood, Mr. Parkinson, Mr. J. Williams, Dr. Kentish, Mr. Margarot, Mr. Hardy,

" Read a letter from the London Corresponding Society, containing their resolutions, excluding Mr. Grant and Mr. Littlejohn from that society; and consequently, that they cannot any longer sit in the Society for Constitutional Information, as associated members from the London Corresponding Society.

" Resolved, That the London Corresponding Society be requested to elect two members, who have their confidence, to supply the places of the associated members vacant by their resolution.

" Resolved, That Mr. Margarot be requested to be one of the stewards of the anniversary dinner.

" Mr. Margarot, being present, accepted the office.

" Mr. Hardy expressed his readiness to accept of the office of steward.

" Read a letter from the United Political Societies of Norwich.

" Resolved, That the consideration of the said letter be postponed till the next meeting."

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

Mr. *Attorney General*.—This is a letter dated the 5th of March, 1793, which is mentioned in the proceedings of the Constitutional Society, on the 22d of March—it is a letter from the United Political Societies at Norwich, to the Constitutional Society in London, upon the project of a Convention.

[The following entries were read from the book of the Society for Constitutional Information:]

" At a Meeting of the Society, at the Crown and Anchor tavern, Strand, Friday, March 29, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 549.]

" At a Meeting of the Society, at the Crown and Anchor tavern, Strand, Friday, April 5, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 549.]

" At a Meeting of the Society at the Crown and Anchor tavern, Friday, April 12, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 551.]

Mr. *Attorney General*.—Refer back to the 29th of March, when it was deferred; was Mr. Tooke present then?

Mr. *Shelton*.—He was not.

Mr. *Erskine*.—You mean his name is not in the book.

Mr. *Attorney General*.—I always mean, present, as appears by the book—was he present upon the 22d, when it appears by the book to be deferred?

Mr. *Shelton*.—Yes, he was.

Mr. *Attorney General*.—We will now read the letter of the 5th of March, from the United Political Societies.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 548.]

Thomas Wagstaffe sworn.—Examined by Mr. *Attorney General*.

Look at that paper *(showing it to the witness)*. Did you ever find that paper in any place?—Yes, at Isaac Saint's, at Norwich.

Mr. *Attorney General*.—I will now call Maclean, to prove, that he found, in the possession of Mr. Adams, a draft of a letter, which your lordship will afterwards find is copied into this letter found at Saint's, at Norwich, by Wagstaffe.

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 551.]

Mr. *Daniel Adams* again called.

Mr. *Attorney General*.—Look at that; is that your hand-writing, and was it sent to Norwich, in consequence of the resolution of the 12th of April, 1793, which appears in your book?—It is my hand-writing, and it was sent to Mr. Saint, at Norwich.

Was it sent in consequence of a resolution of the 12th of April, 1793: " Resolved, That the said answer be sent by the secretary to the secretary of the said societies"?—Yes.

That is the letter that was written, is it?—It is.

Mr. *Attorney General*.—It is a precise copy with the signature of Mr. Adams, of that draft which has been read.

I proceed now to read a letter of the 17th of May, 1793, from Margarot and Hardy, who were both associated members of the Constitutional Society, to the secretary of the Society of the Friends of the People, at Edinburgh.

Mr. *Lauzun*.—This is one of the letters I found in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 407.]

Mr. *Attorney General*.—This is a letter from Skirving, in answer to that letter, the draft of which your lordships have heard read. *(To Mr. Lauzun.)* Did you find this paper any where?

Mr. *Lauzun*.—I found this paper at Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 408.]

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, June 28, 1793,

"PRESENT,

"Mr. Sharpe in the chair,

'Mr. Walker (Manchester), Mr. Bonney, Mr. Martin, rev. Mr. Joyce, Mr. Parkinson, Mr. Chatfield, Mr. J. Williams, Mr. Banks, Mr. Wardle, Mr. Yorke, Mr. Watts, Mr. Campbell, Mr. G. Williams, Mr. Margarot, Mr. J. H. Tooke, Dr. Redhead, Mr. Holcroft,

"Resolved, That a committee be appointed to prepare an Address to the British Nation.

"Resolved, That Mr. Tooke and Mr. Yorke be requested to prepare the said Address."

Mr. *Attorney General*.—Having read a letter from the United Societies of Norwich, to the Constitutional Society in London, with their answer relative to a convention, or an Address to the King, I am now going to read a letter from the Political Society at Norwich, to the secretary of the London Corresponding Society, relative to the same objects, meaning to read the answer presently.

(To Mr. Lauzun.)—Where did you find these papers?—In Mr. Hardy's house.

[Letter from the Political Societies at Norwich, to the secretary of the London Corresponding Society; indorsed, "received the 25th June, 1793," read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 411.]

Mr. *Attorney General*.—I will now read the draft of an answer to the last letter from Margarot and Hardy, dated the 25th of July, 1793.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 412.]

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

Mr. *Attorney General*.—This is a letter from Calender, at Edinburgh, to Hardy, dated October 5, 1793.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 421.]

[The following entries were read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, at the Crown and Anchor tavern, October 25th, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 554.]

"At an Extraordinary General Meeting of the Society for Constitutional Information, at the Crown and Anchor tavern, October 28th, 1793."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 556.]

Mr. *Attorney General to Mr. William Scott*.—Where did you find these papers? *(showing them to the witness)*.—Among papers taken out of the custody of Skirving, at Edinburgh, they are intituled, "Scroll of Minutes of the British Convention."

Mr. *Tooke*.—If I am wrong your lordship will stop me in a minute; but if by that minute I have a chance of saving you an hour you will not blame me for having made the attempt. The prosecutors have proved by their own witness, that though my name appears in the book on the 25th of October, when the motion was made for an extraordinary meeting on the 28th, that I was certainly not present, there being a strong circumstance which enabled the witness to remember my absence on that day. On the 28th of October, he likewise proves that I was not present, and on that day my name does not, though it might, have appeared in the book, notwithstanding my being absent;—but will it then be fit or proper that upon my trial, having first of all proved by their own witness, that I not only was absent when this motion was made, and all that followed in consequence of it, but that I was likewise exceedingly averse from it, very angry at it, and suffered much abuse in consequence of that difference of opinion—will it be fit (perhaps it may be consonant with the rest of the proceeding) that those very actions and measures, which most of all I disapproved, should be read to the jury, who may, perhaps, forget that circumstance while they are reading it, or recollect some unpleasant circumstances while it may be read?—Will it be fit that the measures which I appear most particularly and distinguishingly to disapprove, should be read to the jury in order to criminate me?

Mr. *Law*.—The approbation of Mr. Tooke to the measure of this convention, is contained in a minute of the 17th of January, 1794, when he was in the chair.

Lord Chief Justice *Eyre*.—The whole plan of the trial requires that we should admit this as evidence of a part of the general transaction—at the same time it certainly will not be forgotten, that as to the particular circumstances of sending delegates; in the first place, you were absent when the delegates were appointed—in the next place, as far as your opinion could be collected, you were against sending those delegates: but not only will it be to be read, because it makes a part of the general transaction charged as a conspiracy, but it may also be read upon the ground last opened—namely, that the proceedings of that Convention were afterwards approved of in the Constitutional Society, and

that part of the minutes may be personally brought home to you.

Mr. *Tooke.*—I beg pardon then—as far as I am concerned, the reading this, and endeavouring to apply this to me, is extremely useful to me; my defence for objecting is, I did it to save the time of the Court.

Lord Chief Justice *Eyre.*—You will do right to make every use that you can possibly make of it.

[Extracts from the proceedings of the Convention at Edinburgh read:]

"Convention Hall, November 23d, 1793.

"Fifth Day's Sitting."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 426.]

"Convention Hall, November 28th, 1793.

"Ninth Day's Sitting."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 432.]

"Convention Hall, first year of the British Convention, 29th of November, 1793.

"Tenth Day's Sitting."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 434.]

"Convention Hall, November 30th, 1793.

"Eleventh Day's Sitting."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 436.]

"Convention Hall, Monday, December 2d, 1793, first year of the British Convention.

"Twelfth Day's Sitting."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 438.]

"Edinburgh, December 4th, 1793.

"Fourteenth Sitting of the British Convention."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 442.]

Mr. *Erskine.*—Now, do indulge us with reading that which we had before about the four pounds raised, and the two bad shillings,—the national bank—and also the manner in which the convention was dispersed.

Clerk of Arraigns.—I do not know where it is.

Mr. *Erskine.*—Then find it, sir; I beg you will. I am in no hurry about it. I will wait till it is found.

Mr. *Solicitor General.*—The proceedings of the Convention do not contain any thing about the dispersion of the Convention.

Mr. *Erskine.*—It was read last time.

Mr. *Solicitor General.*—What you allude to was a letter from Mr. Margarot: the money was collected, I believe, in the fourth day's sitting.

[It was read.]

"Edinburgh, 21st November, 1793."

[*Vide* Skirving's Case, *antè*, Vol. 23, p. 422.]

[The following entries were read from the book of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, January 10th, 1794,

PRESENT,

Mr. Banks in the chair,

"Mr. Horne Tooke, Mr. J. Pearson, Mr. Williams, Mr. Bonney, Mr. Fitzgerald, Mr. Sinclair, Mr. Wills, Mr. Hull, count Zenobio, Mr. J. Williams, Mr. Holcroft, Mr. Campbell (Neckinger), Mr. Wardle, Mr. Chatfield, Mr. Weldon, Mr. Harrison, Mr. Parkinson, Mr. Rutt.

"Resolved, That the important letter received from Mr. Sinclair, the delegate from this society to the Convention at Edinburgh, and the subsequent proceedings of that Convention, be taken into consideration on Friday next, and that a general meeting of the society be called for that purpose.

"Resolved, That the foregoing resolution be published in the newspapers.

"At a Meeting of the Society for Constitutional Information, at the Crown and Anchor tavern, Strand, Friday, January 17th, 1794."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 558.]

Mr. *Tooke.*—I beg that the account of the last meeting may be read over again, because it appears so differently from the printed report—the only intelligence that I could possibly have till this moment—I beg that those resolutions may be read—when I proposed a question to my lord chief justice, whether the proceedings of the British Convention should be read—it was stated that an approbation would be found afterwards in the society's books of those proceedings. I do not mean to impute it to the gentleman whoever did so state, for he might mistake, and as I cannot recollect every thing in the books, it is not to be supposed that this gentleman, who was not in the society, should.—It was stated by the counsel for the crown, at the time I proposed the question, whether it would be fit to read the proceedings of the British Convention, since their own witnesses have proved that I had nothing to do with it, but opposed it—it was stated as a reason for reading them, that it would afterwards appear from the books, that I, together with other members, had approved of the proceedings of the Convention.

Now these last resolutions prove most clearly, from the very part of the proceedings of the society, which was stated as the reason for reading the proceedings of the British Convention, that instead of an approbation being given by me (unless I have mis-heard it) it appeared that as soon as those resolu-

tions came to be proposed, Mr. Horne Tooke, who was in the chair till then, quitted the chair in the midst of reading the resolutions, and that Mr. Gerrald took the chair, and then came the approbation of those proceedings which very well might come, because he was a party in those proceedings.

So far from proving an approbation of the proceedings, they prove that that which was stated as a cause for reading them, should not have been so stated. I beg that I may not be supposed to mean to cast any imputation upon the gentleman, who made the mistake, I mean no such thing, least of all to the gentleman whom I now understand to have stated it, for I have the utmost respect for him, and I have it for all the gentlemen. I beg those resolutions may be read over again, and then the Court and jury will see that just before the approbation of those proceedings came, I quitted the chair, and another person took it.

Lord Chief Justice *Eyre*.—It is fit that the observation should be made, and that the paper be read again to see whether it is founded.

Mr. *Attorney General*.—Your lordship will do me the justice to say I was not the person who made the observation—and I wish to add, that if I had been the person who made it, I certainly should have made the observation upon a great many more proceedings than this.

Mr. *Law*.—There is no notice taken of who was in the chair, but that Mr. Tooke was in the chair at the beginning of the meeting, and there is this resolution—"Resolved that we approve of the conduct of the British Convention." Upon the face of that proceeding there is nothing to induce one to believe there had been a change in the chair.

Lord Chief Justice *Eyre*.—Read that again.

Mr. *Solicitor General*.—Read the resolutions of the 10th and the 17th.

Mr. *Tooke*.—I call for those resolutions only of the 17th, which plainly show, if books can show any thing, that immediately before the resolutions were moved approving of the proceedings of the British Convention, I instantly quitted the chair, in the middle of the string of resolutions, and another person took my place.

Lord Chief Justice *Eyre*.—I wish that to be read that I may take a note of it.

Mr. *Attorney General*.—I am very desirous that it may be read.

Lord Chief Justice *Eyre*.—I want to know where it is that the circumstance of Mr. Took's leaving the chair first appears—Is it immediately after—"Resolved that those who imitate his example deserve his fate."?

Mr. *Shelton*.—It is.

Mr. *Attorney General*.—At the meeting on the 10th, at which Mr. Tooke was present, as appears by the book, it was resolved—"That the important letters received from Sinclair, the delegate from this society to the convention at Edinburgh, and the subsequent proceedings of that convention, be taken into consideration on Friday next, and that a general meeting of the society be called for that purpose."—"Resolved that this be published in the newspapers." Then there is the meeting of the 17th, to which I beg your lordship's attention.

Mr. *Tooke*.—I do not mean to be captious; but I beg to know whether my request ought not fairly and reasonably to be complied with and then the attorney general to re-read, if he thinks proper, any other resolutions.

Lord Chief Justice *Eyre*.—I think that you are strictly entitled to have that part of the paper read which you request should be read, and if any thing is thought necessary to be read by way of explaining it, that the proper time for its being read is afterwards.

Mr. *Tooke*.—I wish to have the minute read from the beginning to that place.

[It was read again.]

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

Mr. *Solicitor General*.—The last article on that day is—"Read a letter from Hardy, secretary to the London Corresponding Society." This is the letter from Hardy: dated January 10th, 1794.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 435.]

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, at the Crown and Anchor tavern, Strand, Friday, January 24th, 1794."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 559.]

Mr. *Maclean*.—I found this paper in the possession of Mr. Adams.

Mr. *William Woodfall*.—I believe this to be the hand-writing of Mr. Horne Tooke.

Mr. *Tooke*.—This was proved before, it is an ironical prophecy written by me, unfortunately and too fatally fulfilled.

Mr. *Attorney General*.—I am going to read a resolution that was entered in the Constitutional Society's book on the 24th of January 1794, in the hand-writing of Mr. Tooke.

Mr. *Erskine*.—That is the same thing you have been reading; you have read it in print, and now you are going to read the manuscript.

Mr. *Attorney General*.—No, I read it from the society's book; my lord was kind enough to tell me this morning, that when I produced a rough draft in the hand-writing of the prisoner, it was my duty to read it; following that advice, I am going to read it.

[The rough draft was read.]

Mr. *Attorney General*.—Your lordship will recollect I have proved that Mr. Martin was proposed by Mr. Tooke; I have also proved that Mr. Hardy was an associated member of

the Constitutional Society: I am now going to prove that the address of the London Corresponding Society, of the 20th of January, 1794, is that which is stated to be "The most excellent Address of the London Corresponding Society,"—and is the address alluded to in the resolutions of the 24th of January, 1794, in Mr. Tooke's hand-writing, where he states, "that the Corresponding Society had deserved well of their country."

Mr. *Tooke*.—What the attorney-general states to be proved, I am sure he thinks is proved, but it is possible that he may err, and I think he does now, or else I do greatly; I must beg that the beginning of that last entry may be read over again, to see whether "The most excellent address of the London Corresponding Society" refers to any and what date.

Mr. *Attorney General*.—It refers to no date. I am going to call a witness to prove that the London Corresponding Society (Mr. Martin being in the chair, and Mr. Hardy secretary) published an address upon the 20th of January, 1794; and I mean to prove by evidence that the address which is spoken of in the resolutions of the 24th of January, 1794, is the address of the 20th of January, 1794.

Mr. *Tooke*.—Do I understand it right—that you state that you mean to prove that?

Mr. *Attorney General*.—I shall prove it by that evidence, which I shall leave to the jury upon the fact. I wish not to be misunderstood—I desire to say, and I hope I do not do wrong when I tell you, once for all, that when I state that I have proved any thing, I mean to say no more than that I have offered evidence; the effect of which is for the consideration of the jury.

Mr. *Tooke*.—I hope I have not hinted or insinuated the smallest idea, when I think you have mis-stated any thing, but that it is the effect of error, and nothing else.

Mr. *Attorney General*.—I am always obliged to you when you correct me.

James Davidson, sworn.—Examined by Mr. *Attorney General*.

You are a printer, I believe?—I am.

Do you know Mr. Hardy or Mr. Martin?—I know Mr. Hardy.

Were you employed by Mr. Hardy to print any thing before or after the 20th of January last?—I was, before the 20th of January.

Look at this paper (*the address of the 20th of January* 1794); did you print this pamphlet?—Yes, I believe I did.

Who employed you to print it?—Mr. Thelwall.

Who paid you for it?—I am not yet paid for it.

Mr. *Attorney General*.—I will now prove that this address of the 20th of January, 1794, was found in the possession of the secretary of the Constitutional Society.

(*To Mr. Maclean*)—Did you find this any where?—Yes, I found it in the possession of Mr. Adams.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 441.]

Mr. *Attorney General*.—I am now going to prove a letter of the 24th of January, 1794, from Thomas Hardy, secretary to the London Corresponding Society, directed to citizen Adams; which letter accompanied some copies of the publication which has just been read.

Mr. *Maclean*.—I found this letter at Mr. Adams's.

[It was read.]

"Citizen Adams;—I am ordered by the London Corresponding Society to transmit to the Society for Constitutional Information a few copies of their late publications.

"Thomas Hardy, secretary."

"Friday, Jan. 24th, 1794."

Addressed "Citizen Adams,"

Mr. *Attorney General*.—I propose now to read a letter from Mr. John Martin, the person who signs those resolutions as chairman, giving an account of their proceedings.

Mr. *William Walker*, sworn.

Mr. *Attorney General*.—Did you ever see Mr. John Martin write?—I have.

Be so good as look at that letter—Is that his hand-writing?—I believe it to be his hand-writing.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 477.]

Mr. *Attorney General*.—I shall next read a letter of the 11th of January, 1794, from Thomas Hardy, found in the custody of Mr. Saint, at Norwich, relative to the intended proceedings of the 20th of January 1794.

Mr. *James Walsh*, sworn.—Examined by Mr. *Attorney General*.

Look at that paper, and tell my lord and the jury whether you found it, and where?—I found this paper in the house of a man of the name of Saint, at Norwich.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 435.]

Mr. *Attorney General*.—I am now going to prove a letter which was likewise found in the possession of Mr. Saint, dated the 28th of January, 1794, written by Thomas Hardy.—This letter was forgotten to be read on the last trial.

Mr. *Walsh*.—I found this letter at Mr. Saint's at Norwich.

[It was read.]

London 28th Jan. 1794.

"Fellow Citizens;—On Friday last we answered your letter, and acknowledged at the same time the receipt of your declaration and resolutions, which we highly approve, and many of which we have disseminated; we

send you also some addresses resolved upon at our general meeting, and which we hope you will also approve, and answer without delay: the times are full of danger; we must be firm, active, and unanimous, or all is lost —no timidity, no dilatory weakness, or we are undone.—Yours, for the society,

"THOMAS HARDY, secretary.

"P. S. I have just heard a *report* that there are messengers sent down to Edinburgh to bring Margarot and Skirving up to London: excuse haste. When you write again please to send to me, *under cover*, to the same person."

Addressed, "Mr. William Laws, Saint Mary's, Norwich."

Mr. *Attorney General*.—It is in order now that I should offer to your lordship a witness to prove the hand-writing of the letter of Mr. Thelwall who was an associated member of the Constitutional Society — I mention it now merely that I may have an opportunity of proving that hand-writing. There is another letter of the same person, which, for the same reason, I beg your lordship's indulgence to offer to-morrow morning.

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, on Friday the 7th of February, 1794,

"PRESENT,

"Dr. Kentish in the chair,

"Mr. J. H. Tooke, Mr. Bonney, Mr. Bryant, Mr. Arthur Blake, Mr. Wills, Mr. Sharpe, Mr. Weldon, Mr. G. Williams, Mr. Green, Mr. J. Pearson, Mr. John Martin, Mr. Thompson, M. P. Mr. Wardle, Mr. J. Williams, rev. Mr. Harris, Mr. Parkinson.

"It was moved that a circular letter be sent to each member of this society with a statement of the case of Mr. Sinclair, delegate of this society to the Convention at Edinburgh, and requesting their assistance to the fund already subscribed for him. Passed unanimously."

Mr. *Attorney General*.—Your lordship observes that the entry as it is now read is—"It was moved that a circular letter be sent to each member with a statement of Sinclair's case:" I shall now call Mr. Maclean, to prove the original minutes by which it appears that that motion was made by Mr. Tooke; and then I shall give in evidence a letter of Mr. Tooke's writing.

(*To Mr. Maclean.*)—Did you find this paper any where?—I found it at Mr. Adams's.

Mr. *Tooke*.—The fact is certainly so—I moved it, and wrote the letter.

Mr. *Attorney General* (*to Mr. William Woodfall.*)—Look at the signature to this letter, at the writing at the back of it, and two or three interlineations in the middle of it?—The interlineations, the signature, and the indorsement, are, I believe, of Mr. Tooke's hand-writing.

Mr. *Attorney General*.—This paper, found at Mr. Adams's, is a rough draught of the resolutions copied into the book, but with these variations—in the rough draft it is "Mr. Tooke moved," in the book it is, "It was moved."

[The rough draft was read.]

Mr. *Attorney General*.—Then I desire that the entries of the meeting, on the 7th of February, 1794, at which Mr. Horne Tooke was present, may be read, with respect to the addresses of the London Corresponding Society to Scotland, and those with respect to Sinclair.

[The following entry was read from the books of the Society for Constitutional Information:]

"*February 7th*, 1794.

"Ordered, That the resolutions relative to the Address of the London Corresponding Society, passed at the meeting on the 24th of January last, be sent to the Edinburgh Gazetteer, for insertion.

"Ordered, That a copy of the said resolutions of the 24th of January be sent to the secretary of the London Corresponding Society.

"Mr. J. Williams read a letter from Mr. Sinclair at Edinburgh, dated 1st February, 1794.

"Resolved, That the secretary do now read the statement of the subscription for Mr. Sinclair.

"It was then moved that a circular letter be sent to each member of this society with a statement of the case of Mr. Sinclair, delegate of this society to the Convention at Edinburgh, and requesting their assistance to the fund already subscribed for him. Passed unanimously."

Mr. *Attorney General*.—Now read that letter to which there is Mr. Tooke's hand-writing—"Signed, by order of the society, John Horne Tooke."

[It was read.]

"Sir;—I am directed by the Society for Constitutional Information, to write to all the members of the society, requesting their contribution towards the support of Mr. Sinclair.

"When the delegates from the different Constitutional Societies in Scotland, lately met at Edinburgh, for the purpose of consulting together, and concerting of measures which might be proper to be pursued, in order to obtain a fair representation of the people of Great Britain, in parliament, Mr. Sinclair attended, as delegate, from the Society for Constitutional Information, and behaved,

upon that occasion, with a moderation and temper, which have not only been highly approved, but have much endeared him to this society.

"For that conduct, which we highly approve, Mr. Sinclair was indicted in Scotland, and returned to London upon bail; since that time Mr. Skirving and Mr. Margarot have been sentenced in Scotland (for the same conduct as Mr. Sinclair) to *fourteen* years transportation: with the fate of Messrs. Palmer, Muir, Skirving, and Margarot before his eyes, Mr. Sinclair has returned to Scotland, in discharge of his faith, as a private man towards his bail, and in discharge of his duty towards an oppressed and insulted public; he has returned, not to take a fair trial, but, as he is well persuaded, to a settled conviction and sentence. These sentences of transportation are *novelties* both to England and to Scotland, and exceed, in cruelty and impudence, any thing practised in the odious and abhorred reigns of the Stuarts; and these sentences are to be carried into execution under the administration of Mr. Pitt; and by him who formerly (though hypocritically and treacherously) professed himself a strenuous advocate for parliamentary reform, and himself met the delegates throughout England, assembled in convention, at the Thatched House tavern, for the same purpose as that for which the late convention met in Scotland.

"Should it one day be the fate of this Mr. Pitt to be tried by the people of this insulted and oppressed country, for his treachery to the cause of parliamentary reform, we trust they will never consent to send him to Botany Bay; in the mean time we earnestly solicit your assistance to alleviate the sufferings of Mr. Sinclair's situation, and to afford him every comfort in our power, under that his honourable and meritorious martyrdom, in which, and in worse (if there be worse), we declare ourselves ready to follow him in pursuit of the same object, videlicet, a fair representation of the people in parliament.—By order of the society,

"JOHN HORNE TOOKE."

Mr. *Solicitor General.*—Now refer to the meeting of the society on the 14th of February, when this letter was produced, signed by the chairman, and ordered to be printed, and entered in the books.

[The following entries were read from the books of the Society for Constitutional Information:]

At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor Tavern, Strand, Friday, the 14th of February, 1794,

"PRESENT,

"Mr. J. H. Tooke, in the chair,

"Mr. Hull, Mr. W. Sharpe, Mr. Bonney, rev. Mr. Joyce, Mr. Thompson, Mr. J. Williams Mr. Beck, Mr. G. Williams, Mr. Ashton, Mr. Stark, Mr. Wardle, Mr. Bryant, Mr. Banks, Mr. Parkinson.

"The secretary produced a copy of a letter to be sent to the members of the society, in conformity with the order of the last meeting, two amendments were proposed and agreed to."

"Resolved, That the letter, now produced and amended, be signed by the chairman, and that the same be printed and sent to the members of this society.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor Tavern, Strand, Friday, 7th of March, 1794,

"PRESENT,

"Mr. Sharpe in the chair,

"Mr. Gawler, rev. J. Joyce, Mr. Bonney, Mr. Blake, Mr. Tooke, Mr. Wills, Mr. G. Williams, Mr. Satchell, Mr. Wardle, Mr. Kyd, Mr. Stark, Mr. Hull, Mr. Holcroft, Mr. Chatfield, Mr. Thompson, Mr. Rutt, Mr. J. Williams, Mr. Beck, Mr. Banks, Mr. H. Campbell, Mr. Fawcett.

"Read a letter from Mr. Sinclair at Edinburgh.

"Resolved, That Mr. Hull be requested to obtain credit for Mr. Sinclair at Edinburgh for twenty guineas, on account of this Society."

"Ordered, That the secretary pay Mr. Williams ten pounds, remitted by him to Mr. Sinclair, out of the subscription for Mr. Sinclair.

"Mr. Tooke gave notice that he would at the next meeting of this society move that two books should be opened; one of them bound in black, in which shall be entered all the enormities of those who deserve the censure, and in the other the merits of those who deserve the gratitude of the society."

Mr. *Attorney General.*—I am now coming to what I stated I would read to-morrow morning.—I must trouble your lordship to go back to a letter from Margarot to the Norwich societies, dated Edinburgh, the 24th of November, 1793. Margarot was not only a member of the Constitutional Society, but a delegate of the Corresponding Society in London, and also a delegate of the societies in Norwich to the Scotch Convention.

Mr. *Walsh.*—I found this paper at Mr. Saint's at Norwich.

[It was read.]

"*Edinburgh, 24th November*, 1793.

"Gentlemen:—I yesterday received your letter of the 16th current, in answer to mine of the 7th, requesting your society to send a Delegate to the General Convention; I am sorry you cannot conveniently do so, as an addition to our number would be very service-

able. I must, at the same time, return you my thanks for the confidence you have reposed in me; I chearfully accept the office of delegate for the united societies in Norwich, to whom, as we have long been in correspondence, I cannot think myself entirely unknown; be assured then, my worthy fellow-citizens, that I will endeavour, to the utmost of my poor abilities, to prove myself worthy of the great trust reposed in me.

"You talk of bearing your share of the expenses—to this I reply, that it is one of our first principles, and that, therefore, I am bound to accept it; but while I do so, I am equally bound to inform my constituents in what manner the supplies I may receive from them are to be employed for their advantage. You will then learn that the London Corresponding Society allows both its delegates a certain weekly sum, besides their expenses to and from London: but as that allowance is regulated not so much by their good wishes as by the scanty state of their finances, we find ourselves obliged not only to bear a certain part of the expenses, but also feel ourselves very much cramped in our proceedings, and cannot, without great pecuniary inconvenience, visit the different parts of Scotland, which it is absolutely necessary should be instructed and encouraged before we return to England. My colleague, Joseph Gerrald, means therefore, as soon as the sitting of the convention is over, to return to London, in order that the society, having only one to provide for, may be the better enabled to encourage the furtherance of so important a mission, and that I may then spend a month or six weeks in visiting the numerous friends to reform in various parts, in bringing them to adopt an uniform system of regulations. If, therefore, the plan (which I believe absolutely necessary) meets your approbation, whatever supplies you may think proper to transmit to me shall be employed therein; and, as we have already met with signal success since our arrival, I make no doubt but if I am enabled to continue in Scotland a few weeks longer, it will much advance the cause. I will now proceed to give you an account of what has happened here.

"You know that at our arrival here we found that the convention had, after sitting, four days, adjourned, and the delegates were all gone back to their respective habitations, without proceeding any farther in the business of reform, than simply agreeing that nothing short of universal suffrage and annual parliaments would satisfy them, and on that ground proposing not to send any petition to the king or to the parliament, least by so doing the enemies of reform might be tempted to counteract their wish, and exert themselves to prevent a peace; but at the same time it was recommended by the convention, that all friends to reform should sign any petition for peace, which might originate in another quarter. We soon prevailed on the Edinburgh committee to recall the adjourned convention; the country societies, informed that England meant to take a serious part in the great cause, sent back all their former delegates, and several of them who had not sent delegates to the prior convention, have sent some to this one. On Tuesday, the 19th instant, the convention opened. The number of delegates amounted to 180; some of them came even from so far as Cromartie: the reception we experienced was highly flattering; we mutually gave and received encouragement and animation. I shall not at present attempt to give you a minute detail of what has since passed, because the minutes are to be printed, and then I will not fail sending you a few copies of them, and will, I hope, be able at my return to come to Norwich, and give you an accurate verbal account of every transaction; mean time, if you have any instructions to give me, send them without delay, otherwise I shall act for you conformably to those laid down by the London Corresponding Society, a copy of which you doubtless have received from them. The Convention have begun by establishing a set of rules for the organization of the present and even future *conventions*: next we established a Committee of Union between the two nations, a Committee of Finance, and a committee to take into consideration the protecting or establishing a patriotic newspaper. And on Saturday last we passed a provisory decree of union, the whole convention, standing hand in hand, solemnly pledged themselves to each other, to renounce all national distinctions, to abide firmly, and truly by each other, until the great end is obtained; and at the same time we assumed the title of *The British Convention of Delegates of the People, associated to obtain Universal Suffrage and Annual Parliaments.*

"In my next I will give you another address for those letters which you may write me, *until you* make use of the same which I sent you before; be so good also as to send me two or three unsuspected directions for my letters, because I much fear that at times curiosity engages the people employed in the post office to open our correspondence. Mr. Muir and the rev. Mr. Palmer have both been put on board the Royal George cutter, and have been sent off to London. The news from the continent you are better informed of than I can be, therefore I shall not talk of that. Let me hear from you as soon as you can, and assure the society, from me, that nothing shall be wanting on my part to bring about a speedy and a thorough reform of parliament: but I must not hide from you that our greatest hopes are on the country where I now am, for not only a majority of the people are on our side, but they are most of them so well-informed that they only require the English delegates to encourage them in the name of their respective societies, and

they will proceed regularly and firmly: so that my hopes are sanguine that a reform will soon become the general topic.

"I am most sincerely, friends and fellow-citizens, your faithful delegate and fellow-labourer,

"MAURICE MARGAROT."

Mr. *Attorney General.*—I propose to read next a letter of the 2nd of December, 1793, from Mr. Gerrald and Mr. Margarot, who were delegates from the London Corresponding Society, and also members of the Constitutional Society.

(*To Mr. Gurnell*). Look at that paper—did you find that in any place?—I found it in the possession of Mr. Hardy.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 428.]

Mr. *Attorney General.*—I propose now to read a letter of the 10th of March, 1794, from Margarot to the Norwich Society.

Mr. *Walsh.*—I found this paper at Mr. Saint's house at Norwich.

[It was read.]

"*Spithead, the 10th of March*, 1794.

"Worthy Friends, and Fellow Citizens;—Our stay here being longer than was at first expected, I avail myself of that delay to acknowledge the receipt of twenty pounds from your society, which have been delivered to me by Thomas Hardy, our secretary, to whom you had remitted them, and who has been down here purposely to see me, and make some arrangements for the future, but whose business has called him back to London before any thing could be settled between us. At first he seemed to think that the money was meant by you to be divided among the four who are now suffering together; but, on my acquainting him that those gentlemen were infinitely better off than myself in that respect, in so much that they are continually receiving private presents, and are moreover supported by many noblemen and rich members of parliament, these latter seeking only (I much fear) to make a party affair of it, that he gave the money to my own disposal. If, however, you meant otherwise, your intention shall be complied with immediately on its being made known to me.—So much for pecuniary affairs.—*This morning 10 ships of war have left Spithead for the Channel, and it is here reported that the Brest fleet is out: rumour, always magnifying things, says there are 70 sail of French at sea, if so, there must be a number of transports among them, and a descent may probably be the consequence. For God's sake, my worthy friends, do not relax in the cause of freedom—continue as you have begun—consolidate your own societies—unite with others—persevere, and make no doubt but, sooner or later, your endeavours will be crowned with success.* I have also to thank you for the affectionate address I received from you. Be assured that my utmost ambition will ever be to deserve your confidence and your esteem. The tide of fortune, however strongly it may run against our cause at present, must soon have a turn: the eyes of mankind will naturally open—when their pockets empty, and their blood spills, they will ask each other for whom are we thus sacrificing ourselves, and murdering others? What advantage results to us from all this expenditure and slaughter? And by interfering in the government of another country, do we not set other nations an example to interfere with our own government, and to model it as they think proper? Should they do so, popery and despotism must be our lot—may gracious Providence avert it; may we rather all to a man be determined to live free or die! In my exile nothing would afflict me so much as to hear that my country was enslaved, and that my countrymen hugged their chains. I trust, however, the national spirit of Britons will prevent it. Adieu, my dear friends; and ever remember your faithful

"M. MARGAROT.

"P. S. This day a mock debate concerning our Sentence is to take place in P———."

It being now nine o'clock on Tuesday night, the court adjourned to nine o'clock on Wednesday morning.

Sessions-house in the Old Bailey, Wednesday, November the 19th.

PRESENT,

Lord Chief Justice Eyre; Lord Chief Baron Macdonald; Mr. Baron Hotham; Mr. Justice Grose; Mr. Justice Lawrence; and others, his Majesty's Justices, &c.

John Horne Tooke set to the bar.

Mr. *Attorney General.*—I am now going to prove a letter of the 26th of May, 1792, from Ashton, of Sheffield, to the Constitutional Society, which relates to the correspondence of the Friends of the People.

Mr. *Thomas Maclean.*—I found this paper in the possession of Mr. Adams.

[It was read.]

[*Vide* Hardy's Trial, *antè* Vol. 24, p. 1111.]

(*To Mr. William Woodfall.*)—Look at the interlineation of the word "*from*"?—That is an interlineation in Mr. Tooke's hand-writing.

Mr. *Tooke.*—Yes, I wrote the word "*from.*"

Mr. *Solicitor General.*—We are now going to give, in evidence, a letter which was omitted last night, from the London Corresponding Society to the Constitutional Society at Sheffield, in which they state, they do not expect that any petitions will produce a reform; but still they wish petitions to be made.

Mr. *Edward Lauzun.*—I found this paper in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 406.]

Mr. *Edward Lawrence*.—I found this paper in Mr. Hardy's house.

[A letter from Margarot and Hardy, to Kilminster, secretary to the Birmingham Society for Constitutional Information, June 10th, 1793.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 410.]

Mr. *Solicitor General (To Mr. William Scott.)*—Did you find this paper any where?—I found it amongst Mr. Skirving's papers.

[A letter from Thomas Hardy, to William Skirving, Edinburgh, dated London, October 5th, 1793, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 420.]

Mr. *Attorney General*.—I am going to produce the commissions of Margarot and Gerrald (who, your lordship will recollect, were members of both societies) as delegates to the convention in Scotland.

[They were read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 424.]

Mr. *Solicitor General*.—We will now read the entry in the books of the Constitutional Society, of the 8th of November, 1793, in which it is stated, that letters were read from the societies at Sheffield, Leeds, and Birmingham, in answer to their secretary's letter of the 28th of October, which letter, your lordship recollects, was relative to sending deputies to the convention.

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information held at the Crown and Anchor tavern, Strand, Friday, 8th November, 1793,

"PRESENT,

"Mr. J. Williams in the chair,

"Mr. J. H. Tooke, count Zenobio, Mr. William Sharpe, Mr. Bonney, Mr. Wills, Mr. Martin, Dr. Kentish, Mr. Wardle, Mr. Harrison, Mr. Chatfield, Mr. Holcroft,

"Read letters from the Constitutional Societies at Sheffield, Leeds, and Birmingham, in answer to the secretary's letter of the 28th ultimo."

Mr. *Attorney General*.—I shall now produce letters in answer to the Constitutional Society, relative to sending delegates to the Scotch Convention.

Mr. *Thomas Maclean*.—I found this paper in the possession of Mr Adams.

[It was read.]

"Sheffield Committee Room of the Constitutional Society, November 1st, 1793.

"Sir;—Your letter, and the resolution of the Society for Constitutional Information in London, are this moment delivered to me by Mr. Ashton, in answer to which I sit down instantly to inform you that this society has already transmitted its sentiments to the secretary of the convention in Edinburgh, Mr. Skirving, and declined sending a delegation for reasons which I will transcribe in the words of our letter.—That it would have given this society the most heart felt satisfaction to have had a delegation present at their approaching convention, had we received timely notice of their wishes that it should be so—but it unfortunately happens, that all the gentlemen belonging to the society, which it would choose for so important a business, are so previously engaged in affairs which they cannot possibly postpone in so short an interval, that it is not in our power to comply with their requisition on the present occasion.

"This society are also of opinion, that to give such a measure its full effect, it would be necessary that the other societies in South Britain should have communication with each other on the subject, and be able to ascertain that deputations would be sent from at least a majority of the societies in this part of the kingdom. And to evince that we should be happy to unite our efforts with theirs in one firm and settled plan, we assure them, that if they think proper to fix another meeting in January or February, or any other time which may be more agreeable, and give us immediate notice thereof, and that they wish to see delegates from the several societies in this part of the kingdom, we will write to all those we are in correspondence with, to get such a delegation as may be truly respectable and important.

"The above extract will evince to you, sir, and the Society for Constitutional Information how far your proceeding meets with our approbation. There is a worthy member of this society and of the committee, and I believe also of the committee of twelve, admitted into your society, citizen Alcock, now in London and I doubt not but he has, before this will reach you, given you the whole information herein contained; but so scrupulously exact am I in answering every letter on public business, that I will not trust to him, though I know he is particularly desirous of being introduced to you.

"I was chosen secretary, *pro tempore*, to answer the letter from Mr. Skirving, and therefore continue the office thus much farther, not to keep you in suspense, as the committee will not meet again before Wednesday next, and two or three of the members, who have seen your letter before I did, sent to request I would do so.

"I cannot close this letter without remarking, that all the societies we are in correspondence with, have been remarkably remiss

in their communications for several months past; to many we have addressed more than one or two letters without receiving any answers. This society has been very active, and particularly in publishing, by which several *individuals* have suffered considerably, as the burthen has fallen chiefly on them. We have many thousand members, but a vast majority of them being working men, the war, which has deprived many of them of *all* employment, and almost every one of *half* his earnings, we have been crippled more than any other in the kingdom. We have the satisfaction to know that *we have done* great good, but I fear we must content ourselves with *good intentions* and wishes in future, as our funds are not only exhausted, but the society is considerably in debt, and that debt must fall on a few who have stood forward on every occasion with their zeal, their active efforts, and their credit.

"It appears to me, that if the societies do not become more active, and more united in their efforts in the time to come, what they have done hitherto will be rendered useless, and arbitrary power will trample on all that is dear and valuable to freemen. The measures lately adopted in the sister kingdom, measures as opposite to, and incompatible with a free constitution as fire and water, and since followed up by the most slavish and horrid doctrines in the courts in Scotland, have hitherto been viewed only with a degree of apathy by the great bodies in the kingdom, which we little folks in the country look up to for examples, styling themselves patriotic, such as 'the Society for Constitutional Infor-'mation, in London.' 'The Friends of the 'People, ditto.' 'The Friends to the Liberty 'of the Press,' that we begin almost to think here, it is time to nip those buds of freedom which were beginning to blossom with so much luxuriance, lest they should be exposed to the danger of being blighted by those torpid frosts which appear to have chilled every animating influence in those great barriers which we looked to for defence and protection.

"I assure you, my good sir, nothing is farther from my intention than to give the smallest offence—I am a staunch Democrat, and speak my mind freely; and I hope you will consider what I have hinted at the supineness which appears at present to possess too great a sway, as merely the effect of that warmth and zeal for the great cause we are both strenuous to support and forward, the cause of freedom and parliamentary reform. I am, with the greatest respect, sir, your most obedient servant,

"Matthew Campbell Brown,

"Secretary, *pro tempore*, to the
"Constitutional Society, Sheffield."

Addressed, "Mr. D. Adams, Attorney at Law, Tooke's-court, Chancery-lane, London."

Mr. *Solicitor General*.—Now I will show, from the proceedings of the British Convention, that notwithstanding this letter, the Sheffield Society did send a delegate.

[Extract from the Proceedings of the British Convention, read:]

"Additional Delegations:

"*Crown and Anchor, London,*

"Charles Sinclair, Henry Yorke."

"*London Corresponding Society,*

"Joseph Gerrald, Maurice Margarot."

"*Sheffield Constitutional Society,*

"Matthew Campbell Brown."

Mr. *Solicitor General*.—Now I will show from their proceedings that Matthew Campbell Brown was an active member of the British Convention.

[Extract from the proceedings of the British Convention, read:]

"Citizen Brown, of Sheffield, produced a commission from the Leeds Constitutional Society, appointing him their delegate, which was received and approved of by the Convention."

"Edinburgh, November 26, 1793.

"Seventh Day's Sitting.

"Citizen Matthew Campbell Brown in the chair."

Mr. *Solicitor General*.—Now we will read the letter from Leeds, that was mentioned in the same entry in the Constitutional Society's books.

Mr. *Thomas Maclean*.—I found this paper in the possession of Mr. Adams.

[It was read.]

"Sir;—Your's of the 29th I received, and laid it before the committee of the Leeds Society on Monday the 4th of this instant.

"It is with great satisfaction we read your letter, and approve your having elected your delegates to serve upon such a laudable undertaking; but if you meant for the Leeds Society to adopt the same measures, shall be glad if you will answer this *immediately*; as we are not acquainted with the time of their sitting we fear our delegates would be too late. I am, sir, with great respect, your humble servant,

"Charles Hundley,
"Secretary of the Constitutional Society."
"*Quarry-Hill, 5th November*, 1793."

Addressed, "D. Adams, esq. No. 4, Tooke's-court, Chancery-lane, London."

Mr. *Attorney General*.—We will now read a letter from Hardy to the Norwich Society, desiring them to send delegates to the Scotch Convention, and we shall prove they appointed

Margarot, who was also a member of the Constitutional Society.

Mr. *James Walsh.*—I found this paper in Mr. Saint's house, at Norwich.

[It was read.]

" *London Corresponding Society, Nov.* 23, 1793.

" Fellow-citizens;—You have been already informed, by the correspondence subsisting between the respective divisions of the Patriotic societies in England and Scotland, of the Convention called and now sitting in Edinburgh, for the purpose of obtaining a speedy and radical reform in the system of parliamentary representation; and you are also in possession of the circumstances of our having sent two delegates (citizens Margarot and Gerrald) to represent our increasing society in that respectable assembly. The society for Constitutional Information also elected two representatives (citizens Yorke and Sinclair) the latter only of whom has gone to Scotland for the discharge of his important mission.

" Citizens, the object of our present letter is to inform you of the important communications which our mission has already produced. The spirit and resolution it has diffused through the respective societies in Scotland—the rapid increase of the avowed friends of liberty, which has already made its appearance, and the prospects which have been opened before us of the most complete union, the most determined perseverance, the most active exertion in every constitutional measure, that *can be devised for the recovery of our rights, and the complete renovation of the liberties and happiness, which as men we are entitled to, and, as Britons, we have been taught to expect.* An increase of affection, of zeal, and of confidence; a concert of permanent union; a free communication and comparison of sentiments and intentions; mature deliberation and mutual reliance—these are the fruits of the wise and spirited measures adopted by the friends of liberty in Scotland, and seconded by the societies of London and of Ireland.

" Britons, and fellow-citizens! Let us rouse you to immediate co-operation with these efforts for the general good;—let us awake you to a sense of the importance of the present moment, and persuade you, persuade all the patriotic societies in England to strengthen by their immediate junction with this grand federation;—that as those who are hostile to our freedom are already united by compacts, interests, and coalitions, the friends also of that glorious principle may be bound together by a link still more firm, more intimate, and more durable, to resist every oppression and usurpation that may be attempted, and vindicate the 'Rights of Man.'

" The society at Norwich has already, in some degree, imitated our example: for though time and convenience did not permit them to elect a separate delegate, they have sent a written authority to citizen Margarot to act for them in that capacity, together with instructions to enable him to state their sentiments to the convention, and directions for him to correspond with them, and render their fraternity more complete.

" Citizens! Permit us to unite our voices with those of our brethren in the North, to request you, by some such method (if you cannot render it convenient immediately to send a delegate of your own) to assist the closer union, and more immediate communication of the respective societies.—Persuaded as we are that the friends of liberty, if encouraged by the conviction of general union to step forward, and avow their sentiments, are already so numerous and respectable as to ensure a speedy termination of the calamities of an unjustifiable war, and a restoration of every right to which Britons and freemen are entitled. We are, in the firm assurance of your zeal and sincerity in the cause of liberty, your affectionate fellow citizens,

" Thomas Hardy, secretary.

" *P. S.*—I received your letter, and I sent it to Edinburgh according to your direction."

Mr. *Attorney General.*—I am now going to read from the book of the Constitutional Society an entry of the 6th of December, 1793; that in the presence of Mr. Tooke, as far as that fact is made to appear by the book, a letter was read from Sinclair, one of their delegates, to the Constitutional Society in London, desiring that a secret and select committee might be appointed to correspond with him; and that a secret and select committee was accordingly appointed.

[The following entry was read from the book of the Society for Constitutional Information:]

" At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, on Friday, the 6th of December, 1793,

" Present,

" Mr. Bonney in the chair,

" Mr. J. H. Tooke, Mr. W. Sharpe, count Zenobio, Mr. J. Williams, Mr. Balmanno, Mr. Symonds, Mr. Martin, Mr. Wardle, Mr. Chatfield, Mr. Harrison, Mr. B. Cooper, Mr. Holcroft, Mr. Satchell, Mr. Hardy.

" Read a letter from Mr. Charles Sinclair, delegate from this society at Edinburgh, dated the 7th of November, with the secretary's answer to that letter; and also another letter from Mr. Sinclair, dated the 12th of November.

" Resolved, That a general meeting of this society be called for the second Friday in January next, for the purpose of considering the important letters received from the delegate, Mr. Sinclair.

"Resolved, That a committee be appointed to correspond with our delegate, Mr. Sinclair.

"Resolved, That Mr. Balmanno, Mr. John Williams, Mr. Martin, Mr. Bonney, and Mr. Wardle, compose the committee."

Mr. *Attorney General.*—I am going to read those letters from Sinclair that are referred to in this resolution.

Mr. *Thomas Maclean.*—I found these three papers in the possession of Mr. Adams.

[They were read.]

"*Edinburgh, 7th November,* 1793.

"Sir;—In obedience to my instruction, I hasten to inform you of the state of affairs here, as fully as the time will permit.

"When I came, I found that the Convention had met, and are again recalled by their existing committee for the 19th of this month, in consequence of the arrival of the deputies of the Corresponding Society, and the intimations from various parts of England, that the shortness of the notice, was the chief obstacle to their sending delegates; and such indeed is the extreme joy shown by the friends of liberty here on our appearance among them; such is their cordiality and frankness in their communications with us, and above all, so anxious are they for a union of sentiment, and of exertion in the common cause with the people of England, that it will be highly disgraceful and culpable, if a spirit fraught with such evident advantage to the suffering millions of both countries be permitted to languish without encouragement. I therefore entreat you to take the earliest opportunity of laying this information before the society, in order that they may exercise their discretion upon the steps necessary to be taken for strengthening our numbers, and rendering our measures as effectual as possible. The temper of the people here gives me the greatest reason to hope that they are ready, at least, to acquit themselves of their duty, and as I act in perfect unison with the representatives of the Corresponding Society, I flatter myself that our conduct has tended very much to recover them from the temporary depression, occasioned by their receiving no delegates from England. Ever since my arrival we have regularly attended all their meetings, which are numerous and daily. It delights me beyond measure to see numbers around me who appear to sacrifice all other objects to the great cause in which they are engaged. To the superficial observer, the extreme severity of the sentence of Mr. Muir and Mr. Palmer, may appear to contradict what I say of the disposition of the people, but I am happy in being able to assure you of its truth. The fears of the Borough-mongers are much greater here than in England, and the vengeance (not the justice) of the magistracy corresponds perfectly with his apprehensions. The fate of Palmer and Muir has made a deep impression on the public mind. A report had been circulated yesterday that it was the intention of government to send the latter on shipboard immediately; great pains were taken to preserve the people tranquil, as it was apprehended that it might be an artifice of the common enemy, in order to excite disturbance, and this opinion appears to be founded, as Mr. Muir was desired to hold himself in readiness to go where, or when he knoweth not; indeed nothing can exceed the folly of the proceedings against this man, they seem careful that nothing shall be omitted to be done that can possibly attach the public notice and affection to him; he is confined with another person in a small room, the floor of which is of stone, and no more than two visitors are permitted to be in the room at the same time; in short, all judicial proceedings here are summary, and all punishments are severe in the extreme; if a man is suspected, he is immediately apprehended, and undergoes a secret examination; this was the case with Mr. Hamilton Rowan, who was apprehended on Tuesday in Mr. Muir's room, in about two hours after his arrival, upon a charge of SEDITIOUS INTENTIONS, *and for which he is held to bail to stand trial;** this excellent patriot has it in contemplation to make them a present of the bail, as he thinks *it may be acceptable;* he is accompanied by the honourable Simon Butler, and both return to Ireland this day.

"Since even the intentions of men are here become matters of legal inquiry, and, in some degree, of punishment, and as the crown lawyers may attribute what intentions they please to the accused, it is not improbable but the delegates from London, notwithstanding our utmost caution, may be honoured by a visit from those worthy alguazils. Be not, however, apprehensive about us; for, upon examination, I find the proceedings here something more mild than those of the inquisition. We are prepared accordingly. We have taken our resolution to follow the example of colonel Lilbourne, in refusing to answer any questions until the people are admitted; and then to maintain that we are bound to answer a criminal charge only before a jury of the country, who alone can determine its guilt or its innocence.

"Pray inform me why my friend and colleague is not here; if a continuance of his disorder unhappily prevents him, it will be absolutely necessary to send another by the meeting of the convention. If you had sent twenty delegates from England (and if your activity and exertions had equalled those of the citizens here, three times the number might have been sent with ease) its effects would have been great beyond calculation. I judge from what I see; and, I hope, that no exertion shall be wanting on your part to induce the other societies to follow the example which you have set them; for myself, I beg you to inform the society, that no personal

* See Vol. 23, p. 750, *note.*

consideration shall ever shake my zeal in a cause, the accomplishment of which, from my earliest years, I have ever considered as an indispensable duty, and which, at present, derives a fresh impulse from the miseries of that class of men from whom I have no right to think myself removed. In times, like these, the post of danger is the post of honour; and he who will not be used, ought to be abused. I am, sir, your humble servant,

CHARLES SINCLAIR,

"Delegate from the Society for Constitutional Information,"

"D. Adams, esq. secretary to the Society for Constitutional Information."

"*Robinson's, Leith Walk, 12th November*, 1793.

"Dear sir;—Upon mature reflection, I beg leave to request that the society may be pleased to appoint a secret and select committee, to receive such further communication as shall appear proper to be referred to them: they will necessarily be invested with a responsible power to return an immediate answer to my letters: the time is now nearly arrived when it shall be necessary for you to do much or nothing; upon all similar occasions, what has been so fatal as distrust? A committee formed from the talents and integrity of the society, ought to be confided in; here at the advanced guard I am ready to set the example.

"Mr. Skirving called upon us this morning, and informed us that he expects a very full convention; and that, in consequence of our arrival, many new societies are formed, and forming in different parts of the country. Lord Daer is just come to town.

"I wish you to send me, immediately, a number of your publications, as I think they may be distributed here with infinite advantage. You can send them by the Royal Charlotte, from the George and Blue Boar, Holborn, directed to me at Robinson's, Leith Walk.

"Although Mr. Muir is in very bad health he is expected to be instantly removed to London; if so, let me assure the society they cannot oblige the Scotch more, than by paying him every attention; they consider him as a martyr in their cause. A subscription is opened for him here, and, perhaps, it may be very advisable to forward it in London, as much as possible; for, by all accounts, his small fortune has been quite impaired in the public service.

"The Friends of the People, in Edinburgh, invited the two Irish gentlemen, mentioned in my last, and Margarot, Gerrald, and myself, to a sumptuous dinner, which they had prepared for us. The health of my constituents was given with three times three; in return for which I took upon me to assure them, that they, who have so long deserved well of their country, shall not now relax their endeavours,—in full confidence that they will keep my promise, I am, dear sir, your very humble servant,

"CHARLES SINCLAIR,

"Delegate from the Society for Constitutional Information."

"P. S. Pray have the goodness to order me the Morning Chronicle from Ridgway's, for I have no time to spend in a coffee-house."

Addressed "D. Adams, Secretary to the Society for Constitutional Information."

Mr. *Attorney General*.—Now read the letter dated 7th Nov. 1793.

"Sir;—I have the satisfaction to inform you, that the delegates from the societies in London have, at length, arrived at Edinburgh. Delegates from the other societies in England and who are now upon the road, will soon also be here to wait upon the FRIENDS OF THE PEOPLE, in order to establish an INDISSOLUBLE FRATERNITY between the two nations, and to adopt those measures which, at this *awful period*, may have a tendency to save the country.

"SOLEMNLY pledged, as you are, to a common and JUST cause, no hardship and no expense can be thought too great for you, while you are conscious that you are discharging your duty. With no propriety can you refuse to attend upon your brethren from England, who, at so much expense, and from so great a distance, have come to unite their affections and deliberations with you.

"I feel it my duty, in coincidence with the sentiments of the general committee here, again to recall the SOCIETIES by their delegates to this place. Every moment is precious, and delay is synonimous to treachery.

"I expect therefore, sir, to have the honour of seeing you on the 19th current, in the GENERAL CONVENTION OF THE DELEGATES, in compliance with the public advertisement, which I was bound to insert in my official capacity, in the GAZETTEER of yesterday; to which I entreat your particular attention.

"If you cannot possibly attend, it will be proper to call the COMMITTEE of your SOCIETY to appoint one or two in your place. No exertion on the part of a friend should be wanting at this *important crisis* to render this CONVENTION still more respectable; and none who have the *cause* at heart, and discern how MUCH IS AT STAKE, will be remiss.

"Let it be our ardent prayer to GOD, that his wisdom may direct their measures, and that his benediction may attend the execution of them. I have the honour to be, sir, your most obedient servant,

"WILLIAM SKIRVING, secretary."

"Edinburgh Nov. 7th, 1793.

Addressed "D. Adams, esq. Tooke's-court, Chancery-lane, London."

Mr. *Attorney General*.—The next letter I offer in evidence is dated Tolbooth, the 24th of January, 1794, from Margarot to Hardy,

which I read for the purpose of showing there were armed associations proposed.

Mr. *John Gurnell.*—I found this paper in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 479.]

Mr. *Attorney General.*—I will now produce a letter of Mr. Thelwall's, who your lordship recollects is also an associated member of the Constitutional Society; and I produce it for the purpose of having a passage in it read relative to the address of the 20th of January, of the London Corresponding Society; having before read the letter by which that address was communicated by Hardy, the secretary of the London Corresponding Society, to Adams, the secretary of the Constitutional Society; and having read the entry of the 24th of January, 1794, which states, that the most excellent address of the London Corresponding Society was approved of by the Constitutional Society."—I have taken the liberty of mentioning thus much because I understand in the last trial, in my absence, this letter was not read, your lordship thinking it was not evidence.—I conceive that it is evidence, and I beg leave to offer it.

Mr. *Gibbs.*—Mr. Tooke desires me to make no objection to it.

The Reverend *Richard Williams*, sworn.

Mr. *Solicitor General.*—Look at that letter, (*showing it to the witness*)—Do you know whose hand-writing it is?—I believe the signature to be Mr. Thelwall's.

Did you ever see Mr. Thelwall write?—Yes.

What do you say to the rest; is that his hand-writing?—I do not know.

[It was read.]

"Dear Jack;—I send you three dozen of songs, copies of either of which I would have you give to whoever may ask for them that is likely to sing them; I believe at this time they may do a great deal of good, if well disseminated: I have printed three thousand of each; they sell like wildfire.

"I send you also a little pamphlet, containing an extract from a speech of mine, for publishing which the bookseller, is now in Newgate, and is to be tried for sedition; I send you also a copy of the indictment; show them about to your friends, they will illustrate one of the songs.

"You will also receive several copies of addresses published by the London Corresponding Society; one of them was drawn up by myself, the other is partly the work of Horne Tooke, and partly of the citizen who has signed it as chairman: we had above a thousand people assembled to pass these resolutions; it was a glorious day—a day of triumph to liberty, to which Britain will hereafter owe a considerable part of her happiness.

"I was chairman at the dinner, and I assure you I gave them some fine toasts.—Ah, ça ira, ça ira, ça ira!

"Give some copies of the resolutions to Sampson Read Fountain; and, in short, spread them about as much as you can; I have distributed above fifteen hundred with my own hand.

"London is not the only place that is alive, Scotland is full of liberty boys—Sheffield, Norwich, Manchester, and heaps of places the same; in short, I believe the country will not be humbugged any longer; and that, before half of the next campaign is over, the wise men of Gotham will be obliged to call back their troops from the triumphant republic of France, and grant us our RIGHTS.

"Adieu, citizen Jack, I can think of nothing but politics; pray, when you have any advice to give me, do it plump and open, without any apology, it is the duty of friends to speak their minds without restraint; and remember I am the advocate of *equality and perfect freedom.* Your's,

"J. THELWALL."

"I send you also some resolutions passed at Norwich, and a Scotch newspaper, in which you will find the trial of our delegate, Margarot; Gerrald, our other delegate, and Sinclair, delegate of another patriotic society, set off last night to be tried, cast, and sentenced to transportation also; but patriots disdain to stoop before oppression, and set tyrants and tyranny at defiance."

Addressed "Citizen Jack Vellam"

Mr. *Attorney General.*—I shall next read an entry from the Constitutional Society's book, relative to the mode in which the society at Sheffield keep public fasts.

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 21st March, 1794,

"PRESENT,

"Rev. Mr. Joyce in the chair,

"Mr. Tooke, Mr. Thompson, Mr. Hull, Mr. Sharpe, Mr. Kydd, Mr. Wardle, Mr. Ashmore, Mr. Fitzgerald, Mr. Stark, Mr. Beck, Mr. Fawcett, Mr. Chatfield, Mr. Holcroft, Mr. Jennings, Mr. John Williams, Mr. Richter.

"Resolved unanimously, That the secretary of this society be directed to write to the friends of peace and reform at Sheffield, and to assure them that this society views with pleasure their steady exertions to obtain a fair representation of the people of Great Britain in parliament, and the proper methods which they have taken to employ usefully those days which may be appointed for public fasts.

"Resolved unanimously, That this resolution be published in the newspapers.

"Resolved unanimously, That this motion, when printed, be transmitted to the society of the Friends of Peace and Reform, at Sheffield.

"Resolved, That the anniversary dinner of this society be held on Friday, the 2d of May, at the Crown and Anchor tavern, Strand.

"Resolved, That citizen Wharton be requested to take the chair on that day.

"Resolved, That citizens Thompson, Chatfield, Wardle, and W. Sharpe, be requested to accept the office of stewards on that day.

"They being present accepted of the said office."

Mr. *Attorney General*.—I read that entry because I shall presently offer to your lordship in evidence what was done at Sheffield upon the public fast.

[The following entry was read from the books of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information at the Crown and Anchor tavern, Friday, March 28th, 1794.

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 561.]

Mr. *Attorney General*.—I do not find the word citizen in the book before the 21st of March, 1794. I will now call Mr. Maclean to prove the finding in Mr. Adams's possession a letter from Mr. Hardy, stating the names of those members whom they delegated to the Constitutional Society, according to the last order, to invite them to send to this society, next Friday, a delegation of some of their members.

Mr. *Thomas Maclean*.—I found this paper in the possession of Mr. Adams.

[It was read.]

"*April* 3*d*, 1794.

"Citizen;—I am directed to send to the society for Constitutional Information the following resolutions of the committee of the London Corresponding Society, April 3d, 1794.

"Resolved, That Matthew Moore, John Baxter,* John Thelwall, Richard Hodgson, and John Lovett, members of this society, are appointed to hold a conference with such members of the society for Constitutional Information as they shall think fit to appoint, at seven o'clock to-morrow evening, the 4th April.

"THOMAS HARDY, secretary."

Addressed, "D. Adams, secretary to the society for Constitutional Information."

[The following entry was read from the book of the society for Constitutional Information:]

"At a Meeting of the society for Constitutional Information, at the Crown and Anchor tavern, Strand, Friday, April 4, 1794."

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 563.]

Mr. *John Gurnell*.—I found this paper in Mr. Hardy's possession.

Mr. *Attorney General*.—This is a paper found in the possession of Mr. Hardy, but it seems necessary I should prove it to be his hand-writing; it appears from the book, your lordship observes, that he was present on the 4th of April, 1794; this paper states what passed upon the 4th of April.

Alexander Grant sworn.—Examined by Mr *Solicitor General*.

Look at that paper; can you tell whose hand-writing it is?—I cannot, I never saw this before; I cannot swear to the hand-writing.

Whose hand-writing do you believe it to be?—I cannot say; I do not know that I ever saw it.

Do you know Thomas Hardy?—Yes, very well.

Did you ever see him write?—Frequently.

Now, look at the paper, and say whose hand-writing you believe it to be?—I cannot say.

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* "His" [Mr. Horne Tooke's] "Sunday parties were not unfrequently enlivened by the introduction of extraordinary men, or the intervention of interesting anecdotes. One day, just as dinner was ready, and when all the company were already convoked in the drawing-room, the name of Mr. Baxter was announced, who, on account of his being a stranger, could not obtain admittance farther than the hall. The host, with his usual courtesy, ordered that he should be conducted into the apartment, in which the guests were then sitting, declaring, at the same time, that he believed there must be some mistake, as he was unacquainted with any one who bore this name. On his entrance, the stranger observed, 'that he was one of those who had 'the honour of being tried along with Mr. 'Tooke, and that he had now taken the li-'berty to repair to Wimbledon, to pay his re-'spects in person.'

"'Ah, my good sir! I recollect you well!' exclaims the hoary traitor, 'and gentle-'men,' adds he, turning at the same time to the company, 'permit me to introduce a bro-'ther sufferer to you; he is a little fellow, 'whom I never saw but once before; but he 'is at the same time a hero: for while we 'were in the *bail dock*, about to be arraigned, 'and as yet uncertain of our fate, he stepped 'forward to me and exclaimed: Mr. Tooke, 'our lives have hitherto been but of little 'service to our country; let us then behave 'like men, and see, if by dying bravely, we 'cannot prove of some service to the com-'monwealth.'"—*Memoirs of John Horne Tooke, by Alexander Stephens, esq.; Vol. 2, p.* 300.

Do you believe it to be his hand-writing?—I cannot swear that it is his hand-writing; if I saw his name, I could tell better.

Lord Chief Justice *Eyre.*—You have seen him write?—Yes.

Lord Chief Justice *Eyre.*—From the knowledge you have acquired of his manner of writing, do you or not believe that to be his hand-writing?—It is so different from what I have seen before of his hand-writing, that I do not believe it is his.

Mr. *Attorney General.*—I wish to apologize to your lordship for this examination; the witness swore to it before.

Grant.—I said then I could not swear to it.

Lord Chief Justice *Eyre.*—The question put to you is, Whether from having seen Hardy write, you have such a knowledge of his manner of writing, as to be able to form a belief that it is his hand-writing or not?—I cannot say that it is his hand writing, for I did not see him write it.

Lord Chief Justice *Eyre.*—You ought to know that is not the question asked you; you are not asked, whether he did in fact write it or no, but whether you believe, from the knowledge you have of his hand-writing, that it is his hand-writing or not?—There is a similarity of hand.

Mr. *Solicitor General.*—You have said that you do not believe it to be his; do you abide by that or not?—I beg to look at it again; it is certainly like his hand-writing, but I cannot swear to it.

You have told the jury that you do not believe it to be his hand; I ask you, whether you abide by that answer?—I cannot swear that it is his hand-writing; there is a similarity.

You must tell us, whether you abide by what you said: you told the jury you did not believe it; do you say that again; because, if you do, it is very well; you have a right to judge for yourself.

Mr. *Tooke.*—It will be very difficult for him to abide by his opinion; for he has said both ways; that he did believe it to be similar, and that he did not; but we do not object; I have no objection to Mr. Attorney General's discrediting his own evidence, but I have no objection to admit this as evidence, and to the papers being put in.

Lord Chief Justice *Eyre.*—I cannot do that; I must see that what is admitted is evidence to which no objection occurs to me.

Grant.—I can only say, it is very like the hand-writing of Mr. Hardy; I cannot swear to it.

Mr. *Attorney General.*—I will now read an entry from the book of the society for Constitutional Information, of the 11th of April, 1794.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 564.]

Mr. *Thomas Maclean.*—I found this paper in the possession of Mr. Adams.

Mr. *Attorney General.*—This paper is a rough draft of part of the resolutions of the 11th of April, 1794. I will call Mr. Woodfall to prove whose hand-writing is in it.

(*To Mr. Wm. Woodfall.*)—Whose hand-writing do you believe this to be?—I am a stranger to the hand-writing of the substance of the paper; but there are interlineations of the word "Society"—in two places, which I believe to be Mr. Horne Tooke's writing.

Is there another interlineation of a few words, which have been struck out again?—Yes; but I cannot speak to the hand-writing.

Mr. *Tooke.*—I believe I have written the word "society" here twice.

Mr. *Solicitor General.*—Mr. Shelton, you will read this paper, and you will take notice, that there is a word with a line drawn round it.

[The rough draft was read.]

Mr. *Tooke.*—Mr. Solicitor General, if you will give me leave, and I believe you will think it very proper, by the evidence you have produced, for me to explain this paper; and I hope I do not do wrong to point it out to you; my memory helps me in this respect; and, with that evidence which you have heard, enables me to say, that this is plainly a very idle business, done to save the secretary trouble—

Mr. *Attorney General.*—I should be sorry to interrupt———

Lord Chief Justice *Eyre.*—This is observation upon the evidence.

Mr. *Tooke.*—Your lordship will see it is not observation———

Mr. *Attorney General.*—It gives me great pain to interpose; but that cannot be permitted to come from a gentleman because he takes an active part in his own cause, which should shut the mouth of his counsel.

Mr. *Gibbs.*—As to the gentleman himself taking a part in this cause, it is utterly impossible for any counsel to possess himself of this cause.

Mr. *Attorney General.*—I am sure I can rely upon the candor of Mr. Gibbs, so far as to do me justice in the situation in which I stand; if he will inform me, that, in his judgment, there is the least degree of impropriety in my interposing, I will not interpose again during the whole of the cause.

Mr. *Gibbs.*—I certainly never will give my judgment upon any impropriety of yours—

Mr. *Tooke.*—If the Attorney General will please to cast his eye upon this paper, he will find I am not making observations, or doing any thing improper; he will see that words, which were evidently taken from this paper, have been read as a part of it which ought not to have been read as a part of it; and I am going to explain how it happened, that this difficulty arose—I am not going to make exception to any thing that passed, but that, in a paper the clerk has read, words have been read (not improperly in

him) which make no part of the papers—there are two ways of erasing from any writing, that which you do not mean shall make a part of it—one is, by striking your pen through the word you mean to erase—another is, by encircling it with a line; this is encircled, and yet it is read as if it was part of this paper—you might as well read the erasure of a paper that is erased one way, as the erasure of a paper that is erased another way—this is the only thing I was going to remark, to show you, that this was an erasure, and how it happened.

Lord Chief Justice *Eyre*.—This is not a proper time to do that—but your observation upon reading it, if it appears to you not to have been properly read, is fair and right—because it ought to be properly read—you say there appear to be words struck out, and other words put in over, do not you? and you conceive the words put in over ought not to be read?

Mr. *Tooke*.—No, my lord.

Lord Chief Justice *Eyre*.—The paper is to be read as it is; and if there are words that are struck out, and other words put in; or, if there are words put in in parts, without striking out the other words, yet the whole of the paper must be read, and must be seen, and then it will be for the judgment of the jury, what is the real paper taken altogether, and which cannot be determined properly by any body but the jury.

Mr. *Attorney General*.—Your lordship will permit me to put the Court in mind, that Mr. Solicitor-general, when he put the paper into the hands of Mr. Shelton, desired him to take notice where there was a word with a line drawn round it.

Lord Chief Justice *Eyre*.—The paper is to be read, and with that word scored all round it—whether that word ought to be taken as part of the contents of the paper, or ought not to be taken as part of the contents of the paper, will be for the judgment of the jury.

Mr. *Attorney General*.—I only wish now to say, by way of explaining myself, that I desire to have the fact known to your lordship and the jury, what words were scored round, without saying, in this stage of the cause, that I have any observation to make upon that fact, but I wished to have that fact ascertained.

Mr. *Shelton*.—I mentioned, as I read the paper, that the words were scored round.

One of the Jury.—We shall be glad to understand what words are scored round.

[The paper handed to the Jury.]

Mr. *Tooke*.—By the very question of the jury I am perfectly satisfied that what I was going to say would have been useful to Mr. Attorney-general, to the Court, and on every side, and it was not meant by way of observation.

Lord Chief Justice *Eyre*.—If it is now to explain the appearance of the paper, that certainly is breaking in upon their case.

Mr. *Tooke*—I submit to your lordship, that it is no such thing, and if Mr. Attorney-general had not mistaken my object, I should in one minute have saved all this time, which is my chief object. Your lordship has before you two papers instead of one. I am not making observations or explanations, except for the advantage of the attorney-general and the Court, and I believe I am not breaking in upon any rule of law; I did it merely to save time, for it is no object to me—it is, in fact, two papers—it is a report of the committee, and a resolution of the society. By encircling the word *Convention* with a line, that copy serves for two copies. With the word convention *in*, it is the report of the committee—With the word convention *out*, it is the resolution of the society—that was all I was going to say.

Lord Chief Justice *Eyre*.—There is no sort of objection to your explanation, but that it is explanation by observation upon the evidence, and therefore should have made part of your case; but I agree that your observation is fair, and probably is well founded.

Mr. *Attorney General*.—This mode of conducting a cause makes it necessary for me to go perhaps a little out of order too. I meant by calling your lordship's attention to those words being scored round, to apprize the court of the fact. I say no more now, than that I have a great deal to observe upon that very fact.

Lord Chief Justice *Eyre*.—I have no doubt at all that you have, it is certainly open to observation.

Mr. *Solicitor General*.—I am now going to produce a letter of the 10th of April, 1794, from Hardy, which is mentioned in that minute.

(*To Mr. Maclean.*)—Where did you find that paper?—In the possession of Mr. Adams.

(*To Alexander Grant.*)—You say you have seen Mr. Hardy write; look at the signature to this letter, and tell me whether it is his hand-writing?—I believe it is.

[A letter from Thomas Hardy, to Daniel Adams, dated the 10th of April, 1794, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 565.]

Mr. *Solicitor General*.—This is a printed circular letter of the London Corresponding Society, which was found in the possession of Mr. Saint at Norwich.

Mr. *James Walsh*.—I found this printed letter in the possession of Mr. Saint at Norwich.

[Circular Letter, signed Thomas Hardy, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 481.]

Mr. *Attorney General*.—Here is a bundle of the same papers; I shall call Mr. Lauzun to prove where he found them.

Mr. *Edward Lauzun*:—I found these papers in Mr. Hardy's house,

Mr. *Attorney General*.—I am now going to read a letter which was found in the custody

of the said Mr. Hardy, from Alexander Mitchell, secretary to the society at Strathaven, stating that he had received a circular letter respecting a British Convention to be held in England, and that they had appointed a delegate to attend it.

Mr. *Edward Lauzun.*—I found this paper in Mr. Hardy's house.

[Letter from Alexander Mitchell, to Thomas Hardy, dated Strathaven, 9th of April, 1794, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 483.]

Mr. *Attorney General.*—The Norwich Society, your lordship recollects, was associated with the Constitutional Society. I shall now prove that they came to a resolution to send delegates to the British Convention as soon as called for.

(To Mr. Walsh.)—Where did you find this book?—At Mr. Saint's at Norwich.

[The following entry was read from the said book:]

"*Monday, February 24th*, 1794.

"At a General Meeting of Delegates, held at Postle-Cellar,

"It was unanimously resolved, That one or more delegates should be sent to the next general convention, so soon as called for by our London correspondents."

Mr. *Attorney General.*—I am now going to read a letter dated April the 24th, 1794, from Bristol to the London Corresponding Society, relative to this object of calling a general convention.

Mr. *John Gurnell.*—This paper I found in the possession of Mr. Hardy.

[Letter from the Bristol Constitutional Society to Thomas Hardy, dated the 24th of April, 1794, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 484.]

Mr. *Attorney General.*—The next is a letter from the society at Newcastle, to Hardy, dated the 24th of April, 1794, which desires an answer to be directed to James Smith, joiner, to the care of Mr. Hunter, publican, Butcher Bank. I will call Mr. Gurnell to prove in whose possession he found this letter, and then I will read the answer to it.

Mr. *John Gurnell.*—I found this paper in Mr. Hardy's house.

[Letter dated Newcastle-upon-tyne, 24th April, 1794, addressed Mr. Harding, No. 9, or 19, Piccadilly, London.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 483.]

Mr. *Attorney General.*—Here is a paper which has indorsed upon the back of it—"Copy of an answer to Newcastle-upon-Tyne, addressed to John Smith," &c.

Mr. *John Gurnell.*—I found this paper in the possession of Mr. Hardy.

Mr. *Attorney General.*—I read this paper to prove that this is a communication of their intention relative to a convention; and likewise it is a declaration under the hand of Thomas Hardy, that the committee of correspondence and co-operation, which your lordship sees had been appointed upon the 11th of April, met twice a week.

[Answer dated the 1st of May, 1794, to the letter from Newcastle-upon-Tyne, dated April the 24th, 1794, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 484.]

Mr. *Attorney General.*—I will now prove a letter from the secretary of the Sheffield Constitutional Society, which was found in the possession of Mr. Thelwall, whom your lordship will recollect to be one of the committee of correspondence and co-operation. It states the proceedings of a meeting in the open air at Halifax, of persons from Leeds, Wakefield, Huddersfield and Bradford, to consider on the measures to be adopted preparatory to a general convention, and desiring the directions of the London Corresponding Society.

Mr. *William Tims*, sworn.

Mr. *William Tims.*—I found this paper on the person of Mr. Thelwall.

[Letter dated Sheffield, May 11th, 1794, signed William Broomhead, secretary, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 487.]

Mr. *Attorney General.*—I am now going to prove an entry in the account book Mr. Adams spoke of upon the 14th of March, 1794.—"Cash paid Thelwall, by order, six guineas." Your lordship recollects, that I have proved the address of the 20th of January; I am going to explain that evidence by a short letter of Mr. Thelwall's, found in the custody of Mr. Adams, the substance of which letter is, that he sends for a list of the members of the Society for Constitutional Information, at the request of citizen Tooke, and at the request of the same he desires six guineas, which is the sum mentioned in this book to be paid to him for printing the last 2,500 addresses.

Mr. *Thomas Maclean.*—I found this paper in the possession of Mr. Adams.

[The following extract was read from a book containing the general receipts and disbursements of the Society for Constitutional Information:]

"Friday, 14th March, 1794, cash paid Thelwall, by order, six guineas."

[The letter was read.]

"CITIZEN;—Be kind enough to let my boy have a list of the Society for Constitutional Information (at the request of citizen Tooke) when I send him to-morrow; also, by the request of same, six guineas for printing the last 2,500 addresses, &c. Yours,

"J. THELWALL."

"Addressed "Mr. D. Adams."

Mr. *Attorney General*.—I have read, out of the Constitutional Society's book, a resolution of the 21st of March, 1794, which is in these words—" Resolved unanimously, That the secretary of this society be directed to write to the Friends of Peace and Reform at Sheffield, and to assure them that this society views with pleasure their steady exertions to obtain a fair representation of the people in parliament, and the proper methods which they have taken to employ usefully those days which may be appointed for public fasts." I will now call a witness to prove his finding, in the possession of Mr. Hardy, an account of the proceedings upon the Fast-day at Sheffield, together with a resolution of the Corresponding Society, and a resolution of the Constitutional Society, printed together.

Mr. *Edward Lausun*.—This is one of the books I found in Mr. Hardy's house.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 636.]

William Broomhead sworn.—Examined by Mr. *Law*.

Were you a member of the Constitutional Society at Sheffield?—Yes.

Were you secretary to that society?—Yes, for about five months.

You were secretary up to the month of May last, I believe?—Yes, when I was taken up.

Did you know a person of the name of Yorke, otherwise called Redhead?*—Yes.

Did he attend the meetings of that society?—Frequently he did attend.

Was Yorke a settled inhabitant of Sheffield, or only an occasional comer there?—Only occasional.

Do you remember a meeting held on the Castle-hill, at Sheffield.—Yes.

When was that?—I was at that meeting.

I believe it was on the 7th of April?—Yes, I was at that meeting.

Do you remember having any conversation with Yorke, prior to that meeting, in which the business of that meeting was arranged between you, Yorke, and any other person?—I do recollect a meeting of that sort, but I do not recollect all the particulars that might be discoursed upon.

Was Gale present at that meeting?—Yes.

Were there any body but Gale, Yorke, and you at that meeting?—I think there might be several more, but I do not recollect particularly their names.

You are an associated member, I believe, of the Constitutional Society in London; are you not?—I suppose I was sometime back.

What was settled to be done at the meeting on the Castle-hill, which was to be held upon the 7th of April?—The resolutions were drawn up, and it was agreed that an address, or the substance of what was to be delivered there, should be wrote by Mr. Yorke.

Was any address to Parliament agreed to be prepared?—No, to the king.

Was there any agreement respecting the proposing any address to parliament?—That motion was made, but it was negatived.

Was there no arrangement between you, Yorke, and Gale, respecting the negativing that motion, prior to the time of its being made?—It was so settled, but I had no voice in it.

Between whom was it settled that there should be a proposition at this meeting made for addressing parliament; and that that proposition should be negatived when made?—There were Yorke and Gale, but I suppose that was settled, as it was determined to petition the king.

You say it was settled between Yorke and Gale that such a proposition should be made, and should be negatived?—Yes.

Who was to make that motion?—They ordered me to make the motion for addressing parliament.

Did you afterwards at the meeting held on the 7th of April, in consequence of this agreement, make that motion?—I did.

Do you recollect what were the terms of the motion that you made?—That a petition should be drawn up to the House of Commons, praying for a reform in the representation of the people.

Upon your making that motion, what passed amongst the people assembled?—It was opposed.

Did any body second it?—No, I think it was not seconded; to the best of my recollection it was not.

In what manner was that motion received by the persons assembled, with applause, or disapprobation, or how?—The people in such meetings generally wait for the countenance of the leaders of the meeting very frequently.

I ask you what passed; how was your motion received?—I do not recollect that there was either approbation or disapprobation shown by the people themselves, but it was opposed, I suppose, previous, or rather before they might show either their approbation or disapprobation.

And not being seconded, it fell to the ground?—Yes.

And that had been previously settled between Gale and Yorke?—Yes, that was settled.

Do you remember the speech that was made upon that occasion by Yorke?—I remember he did make a speech, but I cannot recollect the substance of it.

Was that speech published?—It was.

(To Mr. Maclean.)—Where did you find this paper?—I found it in the possession of Mr. Adams.

Mr. *Law to William Broomhead*.—Did you send any number of these printed pamphlets to Mr. Adams?—Yes, in a box.

By whose orders?—The persons that conferred about the meeting.

* See his Trial, A. D. 1795, in this Collection, *post*.

By Yorke and Gale?—Yes, and several other persons.

You were to send them to Adams?—No; to Hardy, I think.

Recollect yourself?—I might send to both.

[Extracts read from a printed pamphlet, intituled, "Proceedings of the Public Meeting held at Sheffield, in the open air, on the 7th of April, 1794.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 613.]

William Broomhead cross-examined by Mr. *Gibbs*.

You were one of this society at Sheffield?—Yes.

Had your society any views of overturning the government by force?—No; not that I know of.

Had any of those, with whom you were acquainted, any idea of overturning the government by force?—None, that I know of.

Had they any idea, or intention, of attacking the person or character of the king, in this constitution?—No, they had not.

How were they affected to the king?—Affected to the king! why as well as any people in England.

Had they any intention of overturning the House of Lords, or of breaking in upon their authority in the state?—No; not to my knowledge.

Had any, whom you knew, of the society, any such intentions?—No, not to my knowledge.

None that you knew, of course, had?—No.

What was the object of the society?—A reform in the democratical part of the British constitution.

What do you mean by the democratical part?—The representative part—in the House of Commons.

Your only object, then, was a reform in that House of Parliament?—It is all that I know of.

Do you know of any other views in any of the societies?—I know of no other views in any of the societies.

Was it the intent, of any you knew in this society, to obtain even that end by force?—None that I know of.

William Broomhead re-examined by Mr. *Law*.

When it was agreed that they should not petition parliament, but your motion, for that purpose, was to be negatived, did you apprehend then that this reform was to be obtained by the medium of parliament?—That was settled amongst a very few persons, as I spoke of before.

Do you apprehend that to have been the object of the persons by whom it was settled, namely, Yorke, Gale, and yourself, to obtain it through the medium of parliament?—If they or any other persons had those evil views, it was unknown to me: and I am certain to the major part of the society; if there were any individuals, either Yorke, Gale, or any other who had such views, it was unknown to us; but deference was paid to them in the ordering and conducting the affairs of the society.

What was your reason for being a party in this sham motion?—There are many men, besides me, that are not expert in law and government, and yet may agree with the honest views of their friends, or those they look upon as their friends, considering them as superior in understanding to themselves; I was secretary, and therefore it became my office more than my choice.

To make sham motions: answer my question, why you was a party to that sham motion?—I was a passive person, as being secretary, and receiving a small allowance on that account; I was passive in that particular, and was frequently told that I had no right to give my sentiments.

Do you know where Gale is gone?—I do not.

You have not seen or heard any thing of him lately?—I have not.

Mr. Justice *Lawrence*.—What were you frequently told?—I have been opposed giving my opinion and sentiments also, as being secretary; I have been told there that I had no right.

George Widdison sworn.—Examined by Mr. *Law*.

Were you a member of the Constitutional Society, at Sheffield?—Yes.

When did you become a member of that society?—It is better than two years ago.

Of what particular division were you a member in that society?—We were not in divisions at that time.

Afterwards of what division were you a member?—I think it was number one.

Were you a delegate of that division?—Part of the time.

When were you elected a delegate?—At the time that those divisions were first formed, I believe.

Do you recollect when that was?—I do not; I believe the books will explain it.

Was it in 1792, or 1793?—I really do not know.

Of what number might your society, in the whole, consist, to the best of your knowledge, at its largest number?—About six hundred regular members, I believe.

How often were the meetings of your society held?—Once a fortnight.

On any particular day in the week?—There was a particular day adapted to each division; ours was, I think, on the Tuesday or Wednesday.

How often were the general meetings of the society held?—They were not exactly the same; sometimes they were regular, sometimes not; they were about once a month, or once in six weeks.

When did you first see York at Sheffield?—Perhaps that might be near upon two years ago.

Do you mean from the present time?—Yes; I think it is, or better than that.

Then it was somewhere towards the latter end of the year 1792?—Yes; I think sometime in that year.

Did you see him at any meeting of the society?—Yes; I have seen him at several.

When did you first see him?—The first time I saw him, I think, was at a friend's house.

Do you recollect when you first saw him in the chair at any of those meetings?—The first time I saw him in the chair was, I believe, at a meeting in Queen-street; the only thing I can recollect it by was, that it was some few months after the execution of the king of France.

That would then be, perhaps, the beginning of the year 1793?—Perhaps it was.

Was Yorke generally in the chair?—He was, when he was at the meeting, generally in the chair.

How long after you first saw him in the chair, did he continue at Sheffield?—I do not recollect that he stopped long after that; perhaps a few weeks.

Had you occasion to see him often?—Not very often at that time.

Do you remember a meeting of the society, held in the back fields, when any delegates were elected?—Yes.

Who were elected delegates?—Mr. Browne was elected a delegate.

Where was he delegated to?—To the convention at Edinburgh.

Who was Brown?—When he first came to Sheffield he acted in the capacity of a player, and afterwards he took up that of an attorney.

He was delegated by your society to Edinburgh, to the convention?—Yes.

Did he go?—Yes.

Was he supported there, do you know; or were his family supported by your society?—I believe both were.

Do you remember Yorke lodging at the house of one Cawthorne?—Yes, very well.

When was that?—The latter end of last March, I think.

I believe you attended him when he was there?—Yes.

In what capacity?—As his hair-dresser.

Do you remember, about that time, having any conversation with Yorke respecting arms?—Not any there, to my knowledge.

Where had you, and when was the first time?—At a Mr. Beal's, a grocer's, somewhere about Hollis's Croft.

Did Yorke lodge at Beal's?—Yes.

He shifted from Cawthorne's to Beal's?—He left Cawthorne's, and went, as I understood, upon some business to Manchester; when he came back, he went to Beal's.

What did he say about arms; do you recollect pikes ever being mentioned?—Yes; we have frequently spoke about pikes.

What particular conversation had you about them?—He seemed to agree upon the necessity of their being made.

Did he give you any directions respecting the making any part of them?—Not direct.

In what manner did he indirectly, if he did not directly, give you any?—He gave me to understand that Mr. Gale would take a dozen for his own defence, if I was to make any; whether he had the order from Gale, or heard any body else say that, I cannot say.

He told you Gale would take a dozen?—Yes.

Did you make any for Gale?—Yes.

What part of the instrument did you make?—The handle.

How many did you make?—About a dozen, or a dozen and a half.

What time was it you made these?—I cannot recollect the particular time; I think in the beginning of April.

Did you show any of these pikes to Yorke?—I took one with me, when I went to dress him one morning, to ask his opinion of the form of it, and the length, whether it would do; he said, he should think it would do, or it would do.

Have you any other employment than that of a hair-dresser?—Yes; a turner.

Then you understood the manner of making the thing you were directed to make?—Yes.

Did he give you any direction, as to the length of these pike-handles?—I cannot recollect that he did.

What was the size of the pike-handle you carried with you to him?—About seven feet long.

Was that the form and size which he approved?—Yes.

Did you ever put on a pike-head to it in his presence?—No.

Have you fitted any to them yourself?—I was to have done, if I had gone forward with the business.

Had you any conversation, from time to time, with Yorke, how you went on with them?—He asked me, some few times, how I went on; if I had made any of those handles, he asked me some few times.

Did he tell you where any pike-heads were left for them?—I do not recollect that he did.

Where did you get the pike-heads, if you got any?—They were to come from one Davison's.

Did you know whether any hoops were used about these pikes?—There were hoops put on at the end where the pike was put in at.

Who provided those hoops for the shafts you had made?—I provided those hoops myself.

Who gave you any direction, respecting those hoops, where you were to get the materials of which they were made: were they

iron?—I got them of the person that used to fit me with other iron-hoops that I had.

Did you get them upon your own credit?—Yes.

You did nothing farther to them than make the shaft, and put on this hoop?—No.

I believe you afterwards withdrew yourself from this society?—Yes.

Did you assign to Yorke your reasons for withdrawing yourself?—I did.

What conversation passed between you and Yorke, respecting your withdrawing yourself from the society?—I told him, one morning when I went to dress him, that I thought we were going too far, with respect to our proceedings; he asked me in what; I told him in respect of universal suffrage.

Did you, on account of your dislike of their proceedings, withdraw yourself from being any longer a member of that society?—Yes, not so much from any dislike, but I was convinced in my own mind that it would carry us too far, by drawing in a greater number of people to give their voices for members of parliament before they were acquainted with the nature of the business.

When did you withdraw yourself?—Sometime in April last.

Had you any conversation with Davison about the pikes?—Yes, several times.

What did Davison tell you respecting them?—I never understood any thing farther from Davison than that they were made to defend ourselves with at Sheffield.

Did you understand what number had been made?—I did not; I rather think I was almost the first that made any handles.

Did any body else make any?—Only me, I believe.

Did Davison, or any body else, show you any of the pikes that were to be put upon those shafts that had been prepared by any body?—I have seen pikes; there were two or three in my place.

Describe the size of them?—About eight inches in length, perhaps one inch and a quarter in the broadest part.

But your's had not been fitted on?—No.

George Widdison, cross-examined by Mr. *Gibbs*.

Were you, in those proceedings at Sheffield, an enemy to the king or to his authority?—No, God forbid that I should.

Do you know of any that were concerned in this society who had any intent to attack the power or the person of the king?—Not to my knowledge there was not.

Would you have continued in the society if you had any apprehension that such were the intentions of it?—I would not.

You did continue in that society a considerable time?—Yes, sir.

You talked of universal suffrage—what was the plan upon which your society generally went—whose plan was it?—It first originated with what was drawn up by the duke of Richmond.

This letter has been shown you before, from the duke of Richmond to colonel Sharman [*Shews the letter to the witness*]—Was that the letter frequently read in the society, and upon which the society in general acted?—It is; that is the letter, and I believe that was the general idea that we at that time all adhered to, because we thought there would be no other plan so effectual, to make the House of Commons what it was originally intended it should be by the constitution,

Your object was, that the House should be what it was originally intended it should be by the constitution?—Yes.

Had you any idea of producing this reform by force?—No, never; I had not any idea of the kind.

Do you know that any other member of the society had any such intentions?—No; I do not.

Did you understand from any members of the society that any such plan was in agitation?—No; I did not.

You say you afterwards withdrew yourself from the society?—Yes.

I think you said the only ground for withdrawing yourself was, that you altered your opinion as to the expediency of universal suffrage?—I did.

And was that the only ground of your withdrawing yourself?—Yes, the principal one.

You have been asked about these pikes—you say some one told you that a man of the name of Gale would take a dozen of the pike-shafts from you if you would make them?—Yes.

Were these pikes to be made for any other purpose than for defending yourselves from any attacks, which you had reason to think the other party would make upon you, at Sheffield?—I believe they were never intended for any other purpose; I remember, in particular, that Gale's house had been attacked once or more, by a great number of people, when some particular news was come to town; they swore vengeance against him, on account of his paper, and several of his friends were then obliged to defend his house—several were solicited to come on that account. And that was what I understood they wanted those arms for.

And it was on that account you think that these pikes were provided—to defend him and his friends from similar attacks?—I understood it in that light; and I believe, from whatever I knew of Gale, that he was too honest a man to have any other intention himself.

But you know that this attack was made upon him?—I cannot say I was an eye-witness to it, but I had it from responsible witnesses that did know it and saw it.

It was publicly known in the town that such a thing did pass?—Yes, and there were butchers and other people threatened my house and more.

Whether you have not heard people of the

opposite party at Sheffield declare, in terms, that if there should be an invasion they would first fall upon you?—Yes, I have.

Do you, in your conscience, believe, that the only cause for talking of and preparing those few pikes was, because an attack was really apprehended from the other party upon Gale, and those who were of his opinions?—I believe that was the only ground that ever they were made at all, as far as I could learn.

Do you recollect any instance when the house in which you live yourself was attacked and threatened?—I cannot say that I do.

Had you any idea either of your own, or do you conceive from any thing you have heard from any of the people who belonged to this society, that these pikes were to be employed for any purpose against the power of the government?—No, I never understood it in that light; because the rabble that was among us the government had little concern in; I believe Bamford, Thomas Penn, and another fellow were the principal cause of it all.

Pray who is that third person that you speak of?—I forget his name, the man at Dronfield —I believe he is a parson.

Why do you think him the cause of it?—From the inflammatory letters that he published in the Sheffield paper, called the Courant.

What was the purpose of these letters?—Recommending to the party called by the name of Aristocrats to take up arms and exterminate us.—There is a book of mine, I believe, now in the privy council, which points to this particular paper, where this inflammatory letter appeared.

A book that was seized in your house, that contains an account of these very papers that you speak of?—Yes, the principal ones of them.

George Widdison, re-examined by Mr. *Law*.

You said, I think, there were some persons who threatened you that in case there was an invasion they would first fall upon you?—Yes.

Will you name those persons who did threaten you that in case there was an invasion they would fall upon you—Name any of them?—I can only recollect one, because we had so many of these wranglings and disputes about politics and the kind, that I cannot charge my memory to swear to any one person but one, and that one is a person who is now in the association at Sheffield.

What is his name?—William Frith.

Was any body by when he threatened you in this way?—I cannot say; this was at his own house.

When was it?—Some time before the armed association began.

How long ago was it?—Above a twelvemonth ago, I rather think, or pretty near.

No pikes were prepared, I think, till about March last?—No.

So that threat did not very much frighten you?—I cannot say it did at that time, but I have been frequently told by other people that the same threat was made use of; but I cannot charge my memory with any person making use of that threat but him, though I have had that threat, and similar ones, made use of in different companies I have been in.

Do you remember any person that threw out those threats in the different companies you have been in?—I cannot say I can particularly.

I ask you to recollect the name of any person that threw out those threats in the different companies you have been in?—As I never expected these matters would be called into a court of justice—I never paid that particular attention to the people who made use of them; it was from the general tenor of the conversation that passed that I speak of these things.

Did you or Gale, or any persons who might be the object of these threats, ever apply to any magistrate for protection?—No, I cannot say that I did, because it was seldom that they could have that justice done to them which they expected.

Does not Mr. Wilkinson, a magistrate, reside very near the town of Sheffield?—Yes.

When you had lately a riot, did not he come into town at the head of some dragoons and restore peace there?—There was no disturbance.

Was not a house began to be pulled down, and set fire to; and was there not a person executed for that crime?—Yes; it was not till after their coming that this riot began; there was no riot till Mr. Wilkinson brought the soldiers in.

So Mr. Wilkinson and the soldiers made the riot?—It began on that very day.

Then *they* set fire to that house?—

Mr. *Gibbs*.—He has not said Mr. Wilkinson set fire to this house; he is your own witness, and he is not to be examined in this way.—I humbly beg your lordship's protection of the witness, or, I should rather say, protection of the gentleman at the bar; Mr. Law is putting in the mouth of the witness that Mr. Wilkinson and the dragoons made that riot, and set fire to the house; that, I humbly conceive, is not the way in which a counsel, examining a witness, ought to put words into his mouth.

Mr. *Law*.—I am not putting it into the mouth of this witness, nor will I suggest to this witness or any other, to say that which is not the truth; but I asked this witness (who takes upon himself to state that there was no riot in the town till Mr. Wilkinson and the dragoons came) whether they occasioned the riot. I have asked to a fact which is notorious to the witness, and perfectly so to myself, having been concerned in the prosecution, whether a house was not set on fire, and a man executed for it.—I ask him whether he meant to impute to Mr. Wilkinson and the dragoons any participation in that mischief.

Lord Chief Justice *Eyre.*—The objection was, that instead of asking whether Mr. Wilkinson and the dragoons set the house on fire, you stated to the witness—"Then they set fire to that house;" that is not a way of asking a question.

Mr. *Gibbs.*—My friend stated it as if the witness had so said.

Mr. *Law.*—I asked him if he did say so.

Lord Chief Justice *Eyre.*—Indeed you did not put it as a question.

Mr. *Law.*—You have said there was no riot till Mr. Wilkinson and the dragoons came—Do you mean to say that the riot was occasioned by them?—I believe they principally occasioned it; there was none before they came.

Lord Chief Justice *Eyre.*—Do you mean that that provoked the people in the town to make the riot, or, that Mr. Wilkinson and the dragoons made the riot themselves?—The taking in the commons was the principal cause of it; the people rose, and opposed the magistrates in doing it; they brought in troops for the purpose of protecting them in doing it; that enraged the minds of the lower people in Sheffield, and they were dissatisfied with Mr. Wilkinson for bringing the troops in.

Mr. *Law.*—You said you could not have that justice done to you which you expected—Did you ever apply for justice, or for protection, to any magistrate resident in or near Sheffield, and were refused?—There have been applications; I myself have applied for it, and been refused: I applied to Mr. Wilkinson for it, and when the cause came to be heard, Mr. Wilkinson was not upon the bench, and Mr. Athorpe decided it.—I was in a public house, we happened to have a dispute upon politics as usual, and we got from one thing to another till we had a quarrel, or misunderstanding, between us; at last the greatest part of them set upon me; they tumbled me down stairs, shook the money out of my pocket, and spent it: Mr. Athorpe connived at the business, when they tendered the money before him upon the bench, and threatened to send me to the pillory if I came to him any more to complain of such a business.

You said you had merely proceeded on the duke of Richmond's plan?—Yes.

Mr. *Gibbs.*—Did you say they tendered the money before the justice?—Yes.

Mr. *Law.*—Were not the works of Paine read in your society?—Yes, some part of them have been read there.

You did not proceed upon this plan?—No; we approved of a great part of his works, because it was wrote upon the principles of liberty and freedom, and so on, but there were great parts of it which none of us understood, and I do not think he himself did.

Did you proceed upon his plan or the duke of Richmond's?—We went upon the duke of Richmond's plan from the first beginning, and we strictly adhered to that.

And did not deviate into Paine's plan?—No.

Mr. *Gibbs.*—You approved the duke's plan, and likewise of so much of Paine's works as fell in with that plan?—Yes.

You said, at the time that you attended the justices, the people that got this money offered it you again?—Yes; they paid it down before the justices, and he returned it to me himself.

Mr. *Solicitor General.*—This witness has mentioned the conversation with Davison upon the subject of arms, I will now prove a letter from Davison, upon the same subject, found in the possession of Hardy.

(To Mr. Gunnell)—Where did you find this paper?—I found it in the possession of Mr. Hardy.

[Letter dated Sheffield, April the 24th, 1794, signed Richard Davison, addressed citizen Hardy, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 588.]

Mr. *Solicitor General.*—There was another letter to the Norwich Patriotic Society, from the same person, enclosed in that letter, which was also found at Hardy's.

(To Mr. Gurnell.)—Where did you find this paper?—This I found also in Mr. Hardy's possession.

[Letter signed Richard Davison, addressed to the secretary of the Norwich Patriotic Society, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 588.]

Lord Chief Justice *Eyre.*—*(To Widdison.)*—What business did Davison follow?—A printer.

Mr. *Solicitor General.*—Your lordship will recollect, that in the proceeding of the 28th of March, 1794, a letter from the secretary of the Corresponding Society, to the Society for Constitutional Information, dated the 27th of March was read, in which there was this postscript:—"I have to inform you that a general meeting of the society will be holden on Monday, the 14th of April, the place to be announced by public advertisement." Your lordship will also recollect that, Mr. Martin was a member of this society, proposed by Mr. Tooke and that the letter of thanks, written by him upon that occasion, was corrected by Mr. Tooke. I am now going to produce to your lordship, the paper which was prepared by that Mr. Martin, of resolutions to be entered into on the 14th of April—they are not the same as were actually entered into, but they were prepared by him for the purpose of being entered into upon that day.

Mr. *Gibbs.*—It has been determined, I believe, that in order to show a general plot, any thing found in the possession of any man living may be given in evidence—there is no doubt that in this way it is evidence.—The ground upon which the court has decided, I apprehend, that this is evidence, and upon which certainly it is admissible according to the decision they have come to is, that Martin

was a member, and every thing, therefore, that he has ever done, since he was a member, is evidence against Mr. Tooke.

Lord Chief Justice *Eyre*.—To state it correctly, every thing that he has done (he being a member) that has relation to this general subject is evidence respecting that general subject—it is a different proposition to say any thing done by him is evidence.

Mr. *Gibbs*.—Any thing is admissible evidence they can shape to this case, not only the acts of the members of this society, but of any man in the world——

Lord Chief Justice *Eyre*.—The acts of any man that is proved to have taken a part in the general transaction are evidence.

Mr. *Gibbs*.—Whether it affects Mr. Tooke or no.

Lord Chief Justice *Eyre*.—Whether it affects Mr. Tooke or no.

Mr. *Gibbs*.—What I wish is, to shut out occasional observations in the course of the evidence.

Mr. *Tooke*.—I beg to say, that I believe my learned counsel was by the altercation beat out of the remark he at first made, and the thing he objected to—Mr. Solicitor-general prefaced an account of the paper which he was going to have read, with Mr. Martin's being a member of the Society for Constitutional Information, and that he had been nominated by me, without mentioning the time when he was nominated by me as a member of the Constitutional Society—he prefaces the introduction of this letter, which is of a very late date, with the circumstance of Mr. Martin's being a member of the Society for Constitutional Information, and that he was nominated by me—I understand the putting them close together without remarking the dates, to have been Mr. Gibbs's original objection.

Lord Chief Justice *Eyre*.—That was not the original objection, but is a very proper improvement of it, and it is very fair.

Mr. *Gibbs*.—My objection was the introducing it with any introduction.

Mr. *Solicitor General*.—With submission to your lordship, I did no more than state the manner in which Mr. Martin was connected with this transaction, to show that that was an act to be given in evidence.

Mr. *Charles Schaw*, sworn.

Mr. *Law*.——Where did you find this paper?—At Mr. Thelwall's.

Evan Evans, sworn.

Mr. *Law*.—Do you know whose hand-writing this is? *(showing the witness the paper.)*—Mr. John Martin's.

Did you hear him read that paper prior to the 14th of April, 1794?—I heard him read it to Mr. Pearce, in the King's-bench.

What did he say respecting the paper, at the time he read it?—I cannot recollect what he said concerning it; I have heard him read something concerning taking arms against the king.

Mr. *Gibbs*.—Never mind what you heard him read—what did he say?—He desired Mr. Pearce to take the resolutions to Chalk Farm; it was intended to meet at a house in Tottenham-court-road, at one time, and the place was thought to be too small; he desired him to take the resolutions to Chalk Farm, and to return as soon as the meeting was over.

Did he read these over?—He did read them over to Pearce, and another man, in the room.

Did he express any approbation of them?—Mr. Pearce came back after the meeting, and said that the resolutions were agreed to.

Did he make any observations upon their tendency?—Yes, he said he wrote the resolutions for Chalk Farm; and he had put plenty of Cayenne pepper into them, and that if they followed his (Martin's) advice, there would be warm work.

Evan Evans,—cross-examined by Mr. *Tooke*.

Do you know Mr. Gay?—I do perfectly well.

Do you know where Mr. Gay lives, or did live?—I cannot rightly recollect; he lives somewhere towards St. James's.

Have you not said you knew he lived in Duke-street?—I do not know that I have said so; I believe he lived somewhere thereabouts.

Have you not said so in this court?—I said I believed so.

Why did you believe so?—Because I have often heard he lived towards St. James's.

What is he?—A perfumer or hair-dresser; he is often with Martin.

Mr. *Tooke*.—I beg pardon for asking a question that appears to be so impertinent but from good authority I am informed, that the Attorney-general, when I was not present, pledged himself that this was the Mr. Gay whom I had nominated to be a member of the Society for Constitutional Information—perhaps, your lordship may recollect it—it stamped a prejudice upon me—at least it was so inserted in all the public papers—and I do not find that that circumstance is now brought forward.—It is not unpleasant in a serious cause now and then, when fairly and properly introduced, to hear a very strange tale if it is a short one.—There is a Nicholas Gay, esq. a gentleman pretty much known to many persons in this court whose custom has been to travel over all parts of Europe; this gentleman was nominated by me to be a member of the Society for Constitutional Information; and, I believe, that this is one instance of the strong delusion put upon those very honourable gentlemen the Attorney and Solicitor-general, and for their sake chiefly I mention it.—This Mr. Nicholas Gay did dine once, about a year ago, at the Society for Constitutional Information, and he was talking of travelling to Russia, where, I believe, he is at present—

Mr. *Law.*—I am sorry to interrupt Mr. Tooke—but has this any reference to the examination?

Lord Chief Justice *Eyre.*—To be sure at this moment it has no reference to the present examination; therefore if you insist upon it, I must desire Mr. Tooke to refrain, till the time comes when Mr. Gay's name is properly introduced on the part of the prosecution, or till it is introduced (if it can be introduced) on the part of the prisoner.

Mr. *Gibbs.*—It has already been introduced on the part of the prosecution, for they have given something in evidence about a Mr. Gay that was mentioned in a letter by one of the members.

Mr. *Law.*—I have no objection to Mr. Tooke pushing his examination respecting Mr. Gay as far as he can. I am objecting to his making observations.

Mr. *Tooke.*—I thought to save time—Mr. Evans, do you know that there does exist a man named Nicholas Gay?—This Gay that I mean, his name is Richard Gay.

You do not know a Nicholas Gay?—No.

Did you ever hear that there was such a man?—No.

Do you know that this Mr. Richard Gay spends his time in travelling abroad?—I never knew him till I came into the King's bench.

Did you ever hear that he had been, or intended to go, to Russia?—No—I did not.

Did you ever hear that he had dined with the Society for Constitutional Information?—I cannot be sure of that.

Perhaps Mr. Evans you have heard of that Mr. Nicholas Gay?—I never heard the name mentioned.

This Mr. Richard Gay then?—I have seen him several times.

You may have heard from him, or somebody that knew him, that he was supposed to be a member of the Constitutional Society——

He was a member of the same society as Mr. Martin; he was a messenger to the society as I understood, or something of that sort.

Did you ever hear him, or Mr. Martin, talking of his dining once at the Society for Constitutional Information?—I never did.

Did you ever hear yourself, or from any person that heard this gentleman talk of travelling, that a strange accident happened to him?—No.

That upon his talking of travelling somewhere, a spy, or informer, who was present, not hearing the whole of the conversation, leant forward and inquired where that gentleman was going; to which some person who knew the character of the inquirer answered, upon my word he is going much farther than I dare to say: you have not heard of that?—I have not.

Mr. *William Walker* sworn.—Examined by Mr. *Solicitor General.*

Do you know Mr. John Martin's handwriting?—Yes.

Did you ever see him write?—I have.

Look at this paper? *(the paper produced by Mr. Schaw).*—I believe that to be his handwriting.

[It was read.]

At a General Meeting of the London Corresponding Society, held at on Monday the 14th of April, 1794.

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 870.]

Mr. *Solicitor General to Mr. Lautun.*—Where did you find this paper?—In Mr. Hardy's house.

The proceedings "at a General Meeting of the London Corresponding Society, held on the Green, at Chalk Farm, on Monday the 14th of April, 1794," read.

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 735.]

Mr. *Solicitor General.*—We will now read some resolutions of the society for Constitutional Information, on the 9th of May, 1794, with respect to printing a pamphlet containing certain proceedings of the London Corresponding Society.

[The following entry was read from the book of the Society for Constitutional Information:]

"At a Meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, May 9, 1794."

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 565.]

Mr. *Solicitor General.*—We will now produce a pamphlet found in the possession of Mr. Adams, the last proceeding of the second of May, the general proceedings of the two societies.

(To Mr. Maclean.)—Where did you find this pamphlet?—This pamphlet I found in the possession of Mr. Adams.

Mr. *Solicitor General.*—This pamphlet contains the proceedings of the Corresponding Society of the 27th of March, and of the society for Constitutional Information of the 28th of March, 1794. There is an address to Muir, Palmer, Skirving and Margarot, contained in the proceedings of the 28th of March.

[The pamphlet was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, pages 561 to 563, and 566 to 572.]

Mr. *William Sharpe* sworn.—Examined by Mr. *Law.*

You were a member of the Constitutional Society I believe?—Yes.

Do you know at what time you were elected?—I believe about two years and a half ago.

By whom were you proposed?—I cannot recollect.

Have the goodness to try to recollect?—I

was told from the books that Mr. Horne Tooke proposed me; but I never knew it personally.

Mr. *Tooke.*—It was so.

Mr. *Law.*—Did you continue to attend after the time of your first election down to May, 1794?—At different times.

Do you recollect being present on the 28th of March, 1794, when a letter was received by the Constitutional Society, from the Corresponding Society, respecting the necessity of forming a convention of the people?—Not having made memorandums of dates, I find a difficulty in recollecting; I remember something to that purpose.

You were present when a letter of that sort came from the Corresponding Society?—Yes.

Did your society concur with them in the proposed resolution?—I believe they did.

Were you present afterwards, on the 4th of April, 1794?—If you name what was done I may recollect.

When five gentlemen from the Corresponding Society, came to the Constitutional Society as delegates?—Yes.

Do you recollect any other five persons of your society being desired to be nominated to join with them as a committee?—I remember being at the society when five gentlemen were there.

Who came from the Corresponding society?—Yes.

Do you recollect the names of the five persons?—No; I never saw them before in my life.

Was there any body appointed by your society to meet them as a committee of co-operation. Were you one of them?—I was one; I understood it as a committee of delegation.

By whom were you proposed?—I think by Mr. Horne Tooke.

You afterwards met?—Yes.

Did you propose any body?—No.

Were you present when the report of these delegates was made, on the 11th of April, 1794?—I believe not; I do not remember.

Were you appointed one of the committee of correspondence?—I was one of the delegates; that is all that I understand.

Appointed on that day, the 11th of April?—Yes.

Was there besides that, a committee of correspondence?—That I cannot tell; I was one of the committee of delegation.

Mr. *William Sharpe.*—Cross-examined by Mr. *Tooke.*

Mr. Sharpe; the gentlemen who have called you as a witness appear to have as good an opinion of you as I have. It is said that I nominated you to some delegation: do you think that I did it because I had a good opinion of you?—Yes.

I believe you have often heard me speak my sentiments upon the different subjects that have been lately agitated in politics?—Yes.

You may, or may not, have heard me at some time or other say, that I would rather be governed by St. James's, than St. Giles's?—Yes; I remember it very well.

I fancy you have often been in my house?—Yes.

I believe our acquaintance first began with the wish that I had, that you should teach my two daughters to engrave?—Yes.

I believe you have assisted them in that way?—I have.

You have been very constantly, in the summer time, I suppose, in my house?—Yes, I have.

You have worked there yourself?—I have.

You have engraved much there?—Yes.

Possibly you can tell in what manner I live, and how my family is ordered and directed?—Yes.

Perhaps you know that I had a horse in the stable?—Yes.

Do you ever recollect my riding out upon it?—Yes.

Often?—No, only once with me.

Once in two years?—Yes.

Did I ever walk outside my gate?—Yes.

Often?—Very seldom.

How often do you believe in two years?—I do not believe you walked out above twice.

You can tell whether I have much company in the week?—Very little in the week.

How was I employed?—Generally in your garden; and, when in doors, you was employed in looking over old books, I suppose for your great work, and writing, and playing at whist.

Do you remember, at any time, my receiving an anonymous letter, directed to me from Ireland, inclosing a letter to Mr. Paine?—Yes, I do.

What was done with it?—Put into the fire.

Was the letter to Mr. Paine opened?—No, you would not open it; it being an anonymous letter, you told me to witness that you put it into the fire without opening it.

Can you recollect on the 15th of May, the day before I was apprehended, where you dined?—Yes, in Spital-square.

Can you recollect any particular circumstance that passed there at the dinner?—Yes, there was a conversation about a letter from Mr. Joyce to you, which I understood was intercepted.

Do you know that I ever received any letter from Mr. Joyce, in my life?—You said you had not received any.

You do not know that I had?—I do not know that you ever did.

Do you know that I ever wrote him one in my life?—You are very backward at writing letters, I should suppose not.

Were you informed of the subject of that letter?—Yes, that letter was alluding to the Red Book; there were to be extracts made from the Red Book, of the sinecures and pen-

sions which Mr. Pitt and his family received from the public. Mr. Joyce called upon me the day Hardy was taken up, and told me he had sent a letter to you, to acquaint you that Hardy was taken up, and desired you to be ready at Spitalfields on Thursday next, with those extracts.

Do you recollect the story being mentioned at the dinner, and considerably laughed at?—It was.

Do you remember one expression in that letter was: "Is it possible to be ready by Thursday?"—I remember that was talked of at dinner.

You recollect the interception of this letter being much talked of at that dinner?—Yes.

Which contained the horrible plot of taking from the Court Calendar a list of large sine cure places and pensions enjoyed by Mr. Pitt, his family, and creatures?—Yes.

Mr. *Tooke*.—I ask these questions, because I believe it was for this plot that I was apprehended the next day; if the intercepted letter is in court have I a right to ask for its production?

Lord Chief Justice *Eyre*.—If there is a letter which is in the hands of the officers of the crown that appears to you to be necessary for your defence, to be sure you may call upon them to produce it.

Mr. *Tooke*.—I mean for the purpose of this cross-examination?

Lord Chief Justice *Eyre*.—To be sure, if they have it, they will produce it. Is it a letter from Mr. Joyce, supposed to be intercepted?

Mr. *Tooke*.—A letter from Mr. Joyce to me, which was intercepted.

Lord Chief Justice *Eyre*.—That is, there was a conversation that such a thing had happened.

Mr. *Tooke*.—A great deal more than that: I am informed, from pretty good authority, that a letter was intercepted, which should have come by the post to me, on the Wednesday previous to my apprehension; that it was produced before the privy council, and made the subject of very serious examination; that great alarm, and great apprehensions, were entertained from the particular way of wording that letter; and it is for the purpose of this cross-examination that I wish to have that letter produced.

[The letter shown to the witness.]

Mr. *Tooke*.—Did you ever see that letter before?—I never saw it before; I was only told of it.

Were you examined to the substance of that letter, in the privy council?—No.

Were any questions asked you in the privy council, relative to that letter?—No, but the substance of it confirms what Mr. Joyce said to me.

Mr. *Tooke*.—May this letter be read?

Mr. *Law*.—It comes in your evidence. Do you know the hand-writing of that letter?—No, I am not acquainted with Mr. Joyce's hand-writing.

Have you seen him write?—I have.

Mr. *Tooke*.—Were you sometimes at the society for Constitutional Information, when I have been present?—Yes, often.

Have you often gone with me in my chaise to Wimbledon, from that society?—Yes.

At what time did we frequently leave that society?—During the business of the Scotch Convention, we went early, we went at the beginning, because you did not like to stay when that matter was before the society; at other times we have frequently staid late, sometimes till ten o'clock, at other times we have come away early.

Mr *Law*.—Mr. Tooke, you may have the letter read now, if it is to answer any purpose.

Mr. *Tooke*.—I desire to have it read.

[The Letter was read.]

"Dear Citizen;—This morning, at six o'clock, citizen Hardy was taken away, by order from the secretary of state's office: they seized every thing they could lay hands on.—Query, Is it possible to get ready by Thursday? Your's, J. Joyce."

Addressed, "J. H. Tooke, esq."

Mr. *Tooke*.—Do you know, by conversation with Mr. Joyce, what it was I was to be ready with by Thursday?—The extracts from the Red Book, of the emoluments that Mr. Pitt and his family derived from the public.

Lord Chief Justice *Eyre*.—Who was to make those extracts?—Mr. Tooke was to make the extracts.

Mr. *Tooke*.—In your passage to dine at Mr. Pearson's, in Spital-square, did you see any light horse?—Yes, I saw the last pass the window; I was told there were some light horse; I looked through, and saw the last.

Was it understood, or had you any reason to suppose, that these light horse were sent in consequence of the interception of this letter, containing this horrid treason?—I understood so, that the army was out.

Lord Chief Justice *Eyre*.—What reason had you to understand that?—A person came and told me, that there went to Spitalfields some light horse that day. I inquired of a military gentleman, a day or two after, and he said there was an order came the night before, for them to be there.

Mr. *Tooke*.—Do you know, of your own knowledge, that for the two years last past I was always very desirous that nothing should be done at the society, that nothing important should be done?—I cannot tell.

Do you know, of your own knowledge, that I was desirous of very long adjournments?—Yes, I heard persons complain against long adjournments; and I understood you was the person complained against.

Do you know that I wished to stay at home, and not to go frequently to London?—You

always expressed a wish of living in your garden; you said you did not care whether you ever went out.

Perhaps you have heard me wish for an act of parliament, to make it death for me ever to go out?—I have heard that.

Were you a member of the club that dined before we met?—Yes.

Do you recollect any thing secret passing there?—No. Visitors were admitted there.

Have you read the reports of the secret committees of the two Houses of Parliament?—No.

Did you ever see or know of the transactions of distant societies in the country, or in London?—No.

Did you ever read all the papers or transactions of the society to which you belonged?—No.

Do you remember any other person ever giving themselves the trouble to read what had passed?—No, I do not.

Have I ever, when I have quitted the society early, spoken to you, or to others in your hearing, to request them to obtain adjournments of the society, when I could not stay for the purpose myself?—I cannot be positive, but I remember something of that sort.

Were all the members of the society for Constitutional Information, at least when you met them, of the same way of thinking?—No.

Did they frequently debate and contradict each other?—Yes.

Do you ever remember any such thing as a secret committee in that society?—No, never.

Can you recollect frequent mention being made of correspondents in different places, when there were none?—Yes, I remember hearing joking about that.

In Ireland, France, and Scotland; do you remember committees of correspondence being appointed frequently?—Yes.

Do you remember their meeting?—I do not.

You were of a committee of correspondence once or twice?—I do not know only this last one; I never met any but this last one.

Do you recollect any reason being given, why you were nominated by me to be of the committee of correspondence?—I understood you had a good opinion of me.

Do you recollect what my opinions were relative to universal suffrage?—O yes, you were against it, sir.

Mr. *Tooke*.—It is hard upon me to be compelled, in order to get at the facts, to ask, in this cross-examination, as if I thought these things were crimes; I think them not, but I put the facts from myself, that I may not have to encounter the abilities of the attorney and solicitor-general, who perhaps will prove these things to be crimes; otherwise, in my own mind, I think them to be no crimes. Have you ever heard me say any thing against the constitution of this country, by King, Lords, and Commons?—Never, you always spoke for it.

Do you recollect whether I was for sending delegates to the British Convention, in Scotland, or not?—I cannot tell, for I came in late that night that it was proposed.

Do you recollect any dispute upon that subject between me and any body else?—I cannot remember.

Did you, at any time in the year 1793, receive letters full of inquiries, whether I was not bribed and pensioned by the court?—I received letters from the country, desiring to know from me, being intimate with you, whether the reports were true, that you were bribed, that you had a pension from the court, that you had deserted the cause of liberty, they wanted to know from me.

Do you know what was the reason of such a report?—On account of your opposing the business of the Scotch Convention.

Do you recollect the letter which I wrote for a subscription for Mr. Sinclair?—I do not remember that.

Can you remember whether I distinguished between assisting a man to do a thing, and assisting him after he had done what I disliked, because he was unfortunate?—Yes, that I remember very well.

You have dined at my house I believe sometimes on a Sunday?—Yes.

What was my custom, with regard to my Sunday?—Why, your employments were as usual on the other days, except your having friends to dinner.

Had I always company on a Sunday?—Generally.

At what time did they usually come?—I believe between the hours of two and four.

About what time did they usually go?—Some went at six, others at seven or eight o'clock.

Was all the conversation open and public?—Yes.

Did any friend of mine bring any body he pleased, whether I knew him or not?—Some did.

Did you consider yourself at liberty to do so?—Yes, and made use of that liberty.

Did any dangerous or improper conversation, as far as you know, ever pass at my table?—I do not remember any; it was all the usual conversation that passes at other tables.

You have dined with me often upon a Sunday, with numbers of other persons, both political persons, and persons who did not trouble their heads with politics, I believe?—Yes.

Have you ever heard me say that if there was trouble in this country I supposed myself should be one of the first victims?—Often.

Have you ever heard me give the reason why I thought so?—Yes; because you would oppose any mischievous characters.

Was it because I have already opposed all parties?—Yes; I remember your making use of some strong expressions, that if you was execrated by all the world, what you conceived to be your duty you should do.

Did you dine at the meeting of the anniversary on the 2d of May, 1794?—Yes.

Can you recollect the substance of what I then said?—No; I only caught a word or two, being at the bottom of the room.

Did you hear at the bottom of the room that I gave a warning to the company not to mistake the object of their censure?—I did not hear it.

Do you remember that I was myself pretty severely abused at that meeting?—I only heard that you made an aristocratic speech.

Lord Chief Justice *Eyre*.—Was that the conversation in the room?—Yes; conversation in the room, and afterwards.

Mr. *Tooke*.—Was it a difficult matter to be admitted a member of the Society for Constitutional Information?—No; a very easy matter.

Were there many refused, who were willing to be members, in the course of the two years that you were a member?—Very few as I recollect.

Was I remarkably diligent, or remarkably careless, about the business of that society?—I thought you was careless.

Do you believe that the professions which I made for a Reform in the House of Commons, in the method of election, were a pretext, or my real sentiments?—Your real sentiments.

Have you any strong reason to believe so?—I have great reason to believe so; you said every thing would be right if the Commons House was settled according to the principles at the Revolution.

Have you reason to believe that I preferred the government of England to the government of France?—You preferred it because you liked it yourself.

You do not know to what degree I liked it?—No.

Were you ever taken into custody?—Yes, by a person with a warrant from the secretary of state.

What was the cause?—I do not know; it was said "treasonable practices."

Were you alone in custody?—Yes.

What did you suppose to be the object of the society for Constitutional Information?—A Parliamentary Reform.

Did you think they had any other object in view?—No; the name expressed the object: I understood so.

Did you think any of the members intended to use force?—No; I never saw any thing of the kind.

Had you any reason to suspect that of any of the members?—No.

Was it ever the subject of conversation among any of the members?—No.

I believe you were of the committee of co-operation?—I really do not know, there are so many names.

You were to co-operate with some of the members of the Corresponding Society, and to co-operate, it says in some of the papers, for a great end—What was the great end?—A parliamentary reform.

Did I ever attend any of those committees?—No.

Do you remember at any time any of those associated members (I think they are called) from the societies at Sheffield, at Norwich, and other places, ever attending the Society for Constitutional Information?—No, I do not remember.

Their names were put in the book, but you do not recollect that they ever attended?—No; I paid so little attention sometimes.

Do you recollect a hundred thousand copies of something (I do not know what) being ordered to be distributed among the correspondents in Great Britain and Ireland?—I remember hearing of such a circumstance.

Did you ever see any of them?—No.

Then you do not know that they were ever printed?—No.

Do you think they were printed?—I should suppose not.

How much money do you think a hundred thousand copies of a sheet-full would cost?—I cannot say.

I believe you have some peculiar ways of thinking of religion of your own?—I have my own ways.

I do not want to inquire into them; but did you ever hear me consent to any attack upon any establishment * of this country, religious or civil?—Never.

Have you not always heard me speak against dissenters of every kind, civil and religious,†

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* At a subsequent period Horne Tooke thus expressed himself:

"Reform! God forbid. I tremble at the very name of reform. The Scotch and the English lawyer in conjunction,—and—with both the Indies in their patronage, point to the *Ecce Homo* with a sneer; and insultingly bid us—'Behold the fate of a reformer!'

"No, With our eyes open to the condition of them all, you know that your friend Bosville and I have entered into a strict engagement to belong for ever to the established government, to the established church, and to the established language of our country: because they are established. Establish what you please: Do but establish; and, whilst that establishment shall last, we shall be perfectly convinced of its propriety." Επεα Πτεροεντα, part 2, p. 490 4to ed. of 1805.

† "Mr. Horne Tooke was a great stickler for the church of England. Not even the mitred Horsley himself ever stood up with greater zeal for its rights and privileges than he did, on all occasions when they were indiscreetly questioned."

"Descanting on this subject one day, at my

for I do not confine it; have you not constantly and perpetually heard me defending every establishment of the country strenuously, against those who opposed it?—Yes; your only object was a reform in the Commons House of Parliament—and I understand you thought that every thing would be right if that was obtained.

Did you suppose me a great bigot for the church of England, or any other church?—No; I thought you had no religion at all.

Do you mean, by having no religion at all, that I had no preference?—No preference? that you were for letting every body enjoy their own.

But you do not suppose I would eat little children without being dressed?—No.

What was your subscription to the Society for Constitutional Information?—A guinea a year.

If any expenses had been incurred besides the guinea that you subscribed, should you have thought yourself answerable for them?—No.

If any member had done any act without your concurring, and being a party in it, should you have thought yourself answerable?—No.

Then if I was guilty of treason, you would not have thought yourself liable, as a member of that society, to be apprehended for treasonable practices—that is, till you were apprehended?—No.

Did you ever hear of such a society as the Lumber Troop?—I have

Were you a member of it?—Never.

Did you ever hear that the first of their regulations is, that every member of that society has permission to knock down any bailiff, constable, or watchman he pleases?—No, I never did.

Mr. *Tooke*.—I did not mean to raise a laugh, my lord, I only meant to show the danger these gentlemen run.

Mr. *Solicitor General*.—I did not object to a great deal of this examination.

Lord Chief Justice *Eyre*.—A great deal of it, though not quite strictly correct, certainly goes materially to the defence.

Mr. *Christopher Hull* sworn.—Examined by Mr. *Garrow*.

Were you a member of the Constitutional Society?—Yes.

From what time were you a member?—I do not immediately recollect; I believe from some time about the year 1791.

Have you continued so till the present time?—I have continued a member till the present moment.

Were you present at a meeting on the 21st of March last?—I cannot tell; I do not recollect any date whatever.

Do you remember being present at any time when a report was made from a Committee of Correspondence?—No, I was not.

Were you present at the appointment of any committee?—I do not recollect.

Have you ever heard of a committee called a Committee of Conference?—I do not recollect to have heard of it till this moment.

Have you heard of a committee of correspondence?—Yes, I believe I have. Before you go on sir, I wish to know what that committee of correspondence was; if it is the committee for which these gentlemen are indicted, I never heard of it till I saw it in the indictment.

I know no other description of it than a committee of correspondence?—I do not know whether I heard of that committtee in the society.

Were you present at any meeting of the society when any committee was appointed for any purpose?—I do not recollect that ever I was, except one I was upon.

For what purpose was that committee appointed?—I cannot tell.

How long ago?—I cannot tell; it might be about the year 1792. I have seen the report, and I believe I heard it before the privy council.

Do you know a person of the name of Joyce?—Yes.

Do you remember being present at any meeting in the month of April, recently, before you were examined before the privy council—being present at any meeting when Joyce was in the chair?—I recollect Mr. Joyce in the chair at the dinner; I do not recollect him in the chair at any meeting of the society.

I asked you whether you were present at any time when any committee which had been previously appointed made a report?—I do not remember being present when any committee made any report, nor I do not believe I was.

Nor being present when any report was read?—No, I do not recollect it.

Do you recollect proposing a gentleman of the name of Dubarry to be a member?—Yes.

Do you remember when that was?—No, I do not.

Mr. *Garrow*.—As you cannot recollect any dates, I will not trouble you with any more questions.

Mr. *Solicitor General (to Mr. Lauzun)*—Where did you find this paper?—I found this paper in Mr. Hardy's house.

[Extracts were read from the Report of the Committee of Constitution of the London Corresponding Society.—No date.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 575.]

house, a clergyman, who happened to be present, whispered to me, 'that he was extremely 'glad he had dined in company with Mr. 'Tooke, for he had always been given to un-'derstand that he was disaffected both in re-'spect to Church and State; but now he 'would return home fully convinced, that there 'was not a more loyal subject or a more or-'thodox divine, within the dominions of the 'king of England." Stephens's Life of Horne *Tooke, Vol. 2, p. 477.*

Mr. *Solicitor General*---There is no date to the paper which has been just read, and I cannot ascertain the date of it any otherwise than by the time when the committee were appointed.

(To Mr. Gurnell)—Will you say where you found this paper?---I found it in the desk of Mr. Hardy.

Mr. *Solicitor General*.—This is the appointment of Mr. Felix Vaughan to be a delegate to the committee for preparing this constitution; endorsed 30th of April, 1792.

[It was read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, page 575.]

Mr. *Solicitor General*.—We shall now read a letter to the people of France, from Mr. Paine, which was printed by the London Corresponding Society; and of which your lordship may recollect they sent two hundred copies to the Constitutional Society.

(To Mr. Gurnell.)---Did you find this paper any where?---This I found in Mr. Hardy's house.

[Letter of Thomas Paine to the people of France, published and distributed, gratis, by the London Corresponding Society, dated Paris, September 25th, first year of the Republic, read.]

(*Vide* Hardy's Trial, *antè*, Vol. 24, p. 495.)

Mr. *Attorney General*.—My lord, we have now closed our case on the part of the prosecution.

DEFENCE.

The Hon. *Thomas Erskine* [afterwards lord chancellor Erskine]:—Gentlemen of the Jury;—When I compare the situation in which not many days ago, I stood up to address myself to a jury in this place, with that which I now occupy—when I reflect upon the emotions which at that time almost weighed and pressed me down into the earth, with those which at this moment animate and support me, I scarcely know how to bear myself, or in what manner to conduct my cause.

I stood here, gentlemen, upon the first trial, not alone indeed, but firmly and ably supported by my honourable, excellent, and learned friend, whose assistance I still have—

[Here Mr. Erskine was interrupted by the noise made by some workmen, which the Court ordered to be stopt; this having been done, he proceeded.]

Gentlemen, I am too much used to public life to be at all disconcerted by any of these little accidents, and, indeed, I am rather glad that any interruption gives me the opportunity of repeating a sentiment so very dear to me—I stood up here, not alone, but ably and manfully supported by this excellent friend, who now sits by me;* yet, under circumstances of distress and agitation, which no assistance could remove, and which I even now tremble to look back upon—I appeared in this place as the representative of a poor, lowly, and obscure mechanic, known only, of course, to persons in equal obscurity with himself; yet, in his name and person, had to bear up against a pressure with which no advocate in England ever before had to contend, for the most favoured or powerful subject. I had to contend, in the first place, against the vast and extensive—but, after the verdict which has been given, I will not say the *crushing* influence of the crown, I had to struggle, from the very nature of the case, with that deep and solid interest which every good subject takes, and ought to take in the life of the chief magistrate appointed to execute the laws, and whose safety is so inseparably connected with the general happiness, and the stability of the government. I had farther to contend with an interest more powerful and energetic—with that generous and benevolent interest, founded upon affection for the king's person, which has so long been, and, I trust, ever will remain the characteristic of Englishmen. These prepossessions, just in themselves, but connected with dangerous partialities, would, *at any time*, have been sufficiently formidable; but at what season had I to contend with them? I had to contend with them when a cloud of prejudices covered every person whose name could be mentioned or thought of in the course of my defence—prejudices not only propagated by honest, though mistaken zeal, but fomented in other quarters by wickedness beyond the power of language to express—and all directed against the societies of which the prisoners were members; *only because they had presumed to do what those who prosecuted them had done before them in other times; and from the doing of which they had raised their fortunes, and acquired the very power to prosecute and to oppress.*

I had to contend too with all this in a most fearful season; when the light and humanity, even of an English public, was with no certainty to be reckoned on—when the face of the earth was drawn into convulsions—when bad men were trembling for what ought to follow, and good men for what ought not—and when all the principles of our free constitution, under the dominion of a delusive or wickedly infused terror, seemed to be trampled under foot. Gentlemen, when we reflect, however, upon the sound principles of the law of England, and the exalted history of its justice, I might, under other circumstances, have looked even those dangers in the face. There would have still remained that which is paramount to the ordinary law, and the corrector of its abuses;—there would

* Mr. Gibbs, now [1818] lord chief justice of the Court of Common Pleas.

still have remained that great tribunal, raised by the wisdom of our ancestors, for the support of the people's rights;—that tribunal which has made the law itself, and which has given me *you* to look at—that tribunal, which, from age to age, has been the champion of public liberty, and which has so long, and so often been planted before it as a shield in the day of trouble. But looking to that quarter, —instead of this friendly shield of the subject, I found a sharp and destroying sword in the hand of an enemy: THE PROTECTING COMMONS WAS ITSELF THE ACCUSER OF MY CLIENT, AND ACTED AS A SOLICITOR TO PREPARE THE VERY BRIEFS FOR THE PROSECUTION. I am not making complaints, but stating the facts as they existed. The very briefs, I say, without which my learned friends (as they themselves agree) could not have travelled through the cause, were prepared by the Commons of Great Britain!—came before the jury stamped with all its influence and authority, preceded by proclamations, and the publications of authoritative reports, in every part of the kingdom, that the influence of the prejudgment might be co-extensive with the island.

I had, therefore, to contend with an impeachment, without the justice belonging to such a proceeding.—When a subject is impeached by the Commons of Great Britain, he is not tried by a jury of his country; why?—because the benevolent institutions of our wise forefathers forbad it. They considered, that, when the Commons were the accusers, the jury were the accusers also.—They considered the Commons in Parliament, and the Commons at large, to be one and the same thing, though one would think, from the proceedings in which we are now engaged, and every thing connected with them, that they had no connexion with one another; but that on the contrary, the House of Commons was holding out a siege against its constituents, and supporting its authority against the privileges of the people, whose representatives they are and ought to be. Upon an impeachment, besides, the Lords in Parliament, upon the same principle, form a criminal court of justice for all the subjects of England. A common man is not *forced* before that high assembly, but *flies to it for refuge;* because, as Mr. Justice Blackstone well expresses it * all the rest of the nation is supposed, by the law, to be engaged in the prosecution of their representatives. But did the Lords in Parliament stand in that situation in the case of the prisoners at this bar? Though not formally arraigned before the great men of the realm, could they look up to them for countenance and support? Gentlemen, the Lords united themselves with the Commons in the accusation, and, like the Commons, prejudged the cause by the publication of reports, which contain the whole mass of the criminating evidence.

I had, besides all this, to wade through a mass of matter beyond the reach of human understanding to disentangle or comprehend, and which no strength of body could communicate if understood; a situation so new and unparalleled in the criminal justice of the country, that the judges were obliged to make new experiments upon our legal constitution, to invent the means of trial: I go along with the decision of the Court as to the adjournment, though I waive no privilege for my client; but what shall we say of a decision, which nothing but necessity could have justified, yet which starts up for the first time in the year 1794, after the constitution has endured for so many centuries; and which brings the judges of the land in consultation together, to consider how by device, indulgence, or consent, or how at last, by the compulsion of authority, they might be able to deal with a case, which had not only no parallel, but nothing even analogous to it in the records or traditions of our country?

I had lastly to contend with all that array of ability and learning which is now before me, though with this consolation, that the contention was with honourable men. It is the glory of the English bar, that the integrity and independence of its members is no mean security of the subject.

When, in spite of all this mighty, and seemingly insuperable pressure, I recollect that an humble and obscure individual was not merely acquitted, but delivered with triumph from the dangers which surrounded him;—when I call to mind that his deliverance was sealed by a verdict, not obtained by cabal, or legal artifice, but supported by principles which every man who has a heart in his bosom must approve, and which accordingly HAS obtained the most marked and public approbation; when I consider all this—it raises up a whirlwind of emotions in my mind, which none but HE who rides upon the whirlwind could give utterance to express. In that season of danger, when I thought a combination of circumstances existed which no innocence could overcome, and having no strength of my own to rely on, I could only desire to place the jury under the protection of that benevolent Providence, which has so long peculiarly watched over the fortunes of this favoured island: sincerely, and from the bottom of my heart, I wished that a verdict should be given, such as a jury might look up to God, as well as around them to man, when they pronounced it. Gentlemen, that verdict is given;—it is recorded,—and the honour and justice of the men who, as the instruments of Providence, pronounced it, are recorded, I trust, for ever along with it.

It may be said that this way of considering the subject is the result of a warm enthusiastic temper, under the influence of a religious education, and it may be so—but there is another point of view in which men of all

* 4 Black. Comm. 261.

tempers, and however educated, must consider it. All men must agree in considering the decision as a great and solid advantage to the country, because they must see in it that our institutions are sound. All men must acknowledge that no event could be more fortunate than a public trial, which has demonstrated that we hold our lives, and every thing most dear to us, under a law which nothing can supersede; since there is little likelihood that men will desire to change a constitution which so thoroughly protects them.—And before this cause is over, you will see that no man has ever had any such disposition.

Gentlemen, we now come to the *merits* of the cause itself; and though, if I were myself at the bar, instead of the honourable gentleman who is arraigned before you, I should be disposed to trouble you very little in my own defence, yet I mean to pursue no such course as the advocate of OTHERS. I say the advocate of OTHERS: for my client must forgive me if I almost lose sight of *him* in the determination of my duties. Indeed, I can hardly find him out in the mass of matter which has been read to you. One is obliged to search for him through the proceedings, and with difficulty can find his name; whilst others, to whom I owe a similar attention, and who stand behind for trial, are undoubtedly implicated in part of that which has been fruitlessly read against HIM. It is this alone which obliges me at all to consider the quality of the transactions before you, and to apply them to the law, lest assumed facts and erroneous doctrines should meet me at *another* time, and in *another* character, touching in their consequences the safety of the other prisoners, and of the whole people of this land.

The first thing we have to consider in this, as in all other trials, is, the nature of the accusation.—What are we here about?—For to say the truth, it is a little difficult at first view to find it out. It is the glory of the English law, that it requires, even in the commonest cases (*à fortiori in a case of blood*), the utmost precision of charge, and a proof correspondingly precise;—hitting the bird in the very eye; strictly conformable, not merely to the substance of the crime, but to the accusing *letter*.

Let us see, therefore, what the charge is—When I had the honour to discuss this subject before, it was to another jury, and, indeed, to another court; for I now see on the bench an honourable and learned judge,* who was not then present: some of *you* also, gentlemen, most probably were in the way of hearing, and of receiving an impression from the able address of the attorney-general, in the introduction of Mr. Hardy's trial: you were bound to be present in court when the jury was called, and it is not to be supposed, that, after having discharged, on that day your duty to the public by a painful attendance, while the case was opened, you would continue it in order to hear the defence with which you had no manner of concern. If you come, therefore, with any bias upon your minds from the situation you were placed in by your duties, it *must* be a bias against ME; for you heard every thing on one side, and nothing upon the other: it becomes my duty, therefore, to go over again the same arguments which I employed before, though some of you are not yet recovered from the fatigue of attending to them. Nor is the task less nauseous to myself; but irksome as it is, it must be performed:—I am not placed here to establish a reputation for speaking, or to amuse others with the novelty of discourse; but to defend innocence, and to maintain the liberties of my country.

Gentlemen, the charge is this—

The indictment states, "That all the prisoners" (whose names I shall hereafter enumerate when I come to remark upon the evidence) "intending to excite insurrection, rebellion, and war against the king, and to subvert the rule and government of the kingdom, and to depose the king from his royal state and government of the kingdom, and to bring and put the king to death—maliciously and traitorously, and with force, did, among themselves, and together with other false traitors, conspire, compass, and imagine, to excite insurrection, rebellion, and war, against the king, and to subvert the legislature, rule, and government of the kingdom, and to depose the king from the royal state and government of the kingdom, AND TO BRING AND PUT OUR SAID LORD THE KING TO DEATH." This is the whole charge—But as it is an offence which has its seat in the heart, the treason being complete by the unconsummated intention, it is enacted by positive statute, and was indeed the ancient practice upon the general principles of English law, that he who is accused of this crime, which consists in the invisible operations of the mind, should have it distinctly disclosed to him upon the same record, what acts the crown intends to establish, upon the trial, as indicative of the treason; which acts do not constitute the crime, but are charged upon the record as the means employed by the prisoner to accomplish the intention against the king's life, which is the treason under the first branch of the statute.

The record therefore goes on to charge, that, "in order to fulfil, perfect, and bring to effect their most evil and treasonable compassings and imaginations," (that is to say, the compassings and imaginations antecedently averred, viz. to bring and put the king to death,) "they met, consulted, conspired, and agreed among themselves, and others, to the jurors unknown, to cause and procure a convention and meeting of divers subjects of the realm, to be held and assembled within this kingdom." Now, in order to elucidate the true es-

* Mr. Justice Lawrence.

sense of this anomalous crime, and to prevent the possibility of confounding the treason with the OVERT ACT, which is only charged as the manifestation of it,—let us pause here a little, and see what would have been the consequence if the charge had finished here, without farther connecting the OVERT ACT with the TREASON, by directly charging the convention to have been assembled FOR THE PURPOSE OF BRINGING THE KING TO DEATH. I shall not be put to argue that no proceedings could have been had upon such a defective indictment; since common sense must inform the most unlettered mind, that merely to hold a convention of the people, which might be for VARIOUS PURPOSES, without alleging for WHAT PURPOSE it was assembled, would not only not amount to high treason, but to NO CRIME WHATSOEVER. The indictment, therefore, of necessity, proceeds to aver, that "they conspired to hold this convention, WITH INTENT, *and in order, that the persons so to be assembled at such convention and meeting, should and might, wickedly and traitorously, without and in defiance of the authority, and against the will of the parliament of this kingdom, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government of the kingdom.*" What then is the charge in this first count of the indictment, when its members are connected together, and taken as one whole? It is, that the prisoner conspired, and confederated, with others, to subvert the rule and government of the kingdom, and to depose the king, and to BRING AND PUT HIM TO DEATH; which last of the three is the only essential charge: for I shall not be put to argue that the indictment would have been equally complete without the two former, and wholly and radically defective without the latter; since it has been, and will again be conceded to me, THAT THE COMPASSING THE KING'S DEATH IS THE GIST OF THE INDICTMENT, WHICH NOTHING CAN ADD TO, AND THE OMISSION OF WHICH NOTHING CAN SUPPLY. The indictment, therefore, having charged the traitorous compassing, proceeds, in conformity to the statute, to state the act charged to have been committed in fulfilment of it; which you observe, is not an armed assembly to seize and destroy at once the person of the king, but a conspiracy to effect the same purpose through the medium of a convention; the indictment, therefore, charges their design to assemble this convention, not as a meeting to petition for the reform of parliament, or to deliberate upon the grievances of the country, but with the fixed and rooted *intent in the mind*, that this convention, when got together, whatever might be its external pretext, should depose the king, AND PUT HIM TO DEATH. It is impossible, therefore, to separate the members of this charge without destroying its whole existence; because the charge of the compassing would be utterly void without the overt act which the statute requires to be charged as the means employed by the prisoner to accomplish it, because no other acts can be resorted to for its establishment; and because the overt act would be equally nugatory if separated from the compassing; SINCE THE OVERT ACT DOES NOT SUBSTANTIVELY CONSTITUTE THE TREASON WHEN SEPARATED FROM THE TRAITOROUS PURPOSE OF THE MIND WHICH PRODUCED IT, BUT IS ONLY THE VISIBLE MANIFESTATION OF THE TRAITOROUS INTENTION, WHICH IS ADMITTED, ON ALL HANDS, TO BE THE CRIME.—*Your* office, therefore, gentlemen—*(I defy the wit, or wisdom, or artifice of man, to remove me from the position)*—*your* office is to try whether the record, inseparable as I have shown it to be in its members, BE TRUE OR FALSE;—or, to sum up its contents in a word, *whether the prisoner conspired, with others, to hold a convention or meeting, with the design that, under the mask of reform of parliament, it should depose the king from his royal office, and* DESTROY HIS LIFE.

There are several other overt acts charged in the indictment, to which, however, you will see, at a glance, that the same principle will uniformly apply; since the compassing the death of the king is alike the charge in all of them; the overt acts only differing from one another, as the indictment charges different acts connected with the assembling of this convention—such as *how* it was to be held —*who* were to form committees for projecting its meeting—and so on—which I do not particularize just now, because I shall have occasion to consider them distinctly when I come to the particulars of the evidence. There is one of the counts, however, that has been so strongly relied on in argument, and to which so large a portion of the evidence has been thought to apply, that it is necessary, in this place, to attend to its structure. I mean the count which charges the circulation of papers. We have heard a great many of them read, and they will be a lesson to me never again to destroy old newspapers as useless wrappings, but to treasure them up as precious *manuscripts* for the discovery of plots and secrets of conspirators: for, with a very few exceptions, the whole of the written evidence—by which so deep laid and detestable a conspiracy is supposed to have been developed by the seizure of the persons and correspondences of traitors—has been to be found, for two years past, upon the public file of every common newspaper, and retailed, over and over again, in every town and country magazine in the kingdom; and that too with the implied consent of his majesty's attorney-general, who could not help seeing them, yet who never thought of prosecuting any man for their publication. Yet these said old newspapers have been on a sudden collected together, and their circulation charged as an overt act of high treason against the honourable gentleman before you; although, with a very few and perfectly harmless exceptions, it has not been shown that he either *wrote* them, or *published* them, or *read* them, or even *knew* of their existence.

But supposing him to have been the author of all the volumes which have been read, let us examine how they are charged, in order to erect their circulation into treason.

The indictment states, that "farther to fulfil their traitorous intention *as aforesaid*," *(referring to the antecedent charge of compassing in the former count)*, they maliciously and traitorously did compose and write, and cause to be composed and written, divers books, pamphlets, letters, and instructions, purporting, and containing therein, amongst other things, encouragements and exhortations to move, induce, and persuade the subjects of our said lord the king, to choose, depute, and send, and cause to be chosen, deputed, and sent, persons as delegates, to compose and constitute such convention as *aforesaid*, with the traitorous purposes aforesaid"—*which is agreed to be a reference to the traitorous purposes enumerated in the antecedent part of the indictment.* Here, therefore, let us pause again, to review the substance of this accusation.

The charge, you observe, is NOT the writing of a libel, or libels; or for their publication or circulation; but their composition and circulation *to effect the premeditated, preconcerted treason against the king's life.* This *intention*, in their circulation, was accordingly considered by the Court most distinctly and correctly, not only in the charge to the grand jury, but upon the former trial, as the merest matter of fact which could possibly be put upon parchment; totally disentangled from every legal qualification. We are not, therefore, examining whether these papers which have been read, or any of them are *libels;* but whether (whatever may be their criminal or illegal qualities) they were written and circulated by men, who having predetermined, in their wicked imaginations, to despose *and put to death the king*, wrote and published them to excite others to aid them in the accomplishment of that detestable and traitorous conspiracy.

There is another overt act, in which the publication of the same papers is charged, which I only read to you to show the uniform application of the principle which obviously pervades every branch and member of the indictment. It states, that "the prisoners, in further fulfilment of the treason *aforesaid*" (i. e. *by reference, the treason of* PUTTING THE KING TO DEATH), "and in order the more readily and effectually to assemble such convention and meeting as aforesaid, *for the traitorous purposes aforesaid*" (i. e. *by reference, the traitorous purpose against the life of the king*), they composed, and caused to be composed, divers books, pamphlets, &c. purporting and containing, amongst other things, incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of our said lord the king to choose, depute, and send, and cause to be chosen, deputed, and sent, persons as delegates to compose such convention and meeting as aforesaid, to aid and assist in carrying into effect such traitorous, subversive alteration and deposition as last aforesaid." So that *this* charge differs in nothing from the *former*.—For it is not that criminal pamphlets were published, but that they who published them, having wickedly and maliciously conceived in their minds, and set on foot a conspiracy wholly to overthrow and subvert the government, to depose, and *to put to death the king*, published them for the express purpose of exciting others to join them in the accomplishment of their treason. It does not charge the publication of libellous matter, which, peradventure, or even in all probability, might excite others to *originate* such a conspiracy; but directly charges the criminal purpose of exciting others to assist in the accomplishment of one already hatched in the mind and intention of the prisoner.

Gentlemen, I should not farther enlarge upon matter which appears to be so self-evident, more especially as I perceive that I have the assent of the Court to the meaning and construction of the indictment as I have stated it, were it not that on the former trial it was directly questioned by the solicitor-general, in an argument which I cannot possibly reconcile with any one principle or precedent of English law. I am persuaded that he will not consider this observation as a personal attack upon his integrity, or any depreciation of his professional learning,* for both of which I have always had a great respect. The truth is, when the mind has long been engaged upon a particular subject, and has happened to look at it in a particular point of view, it is its natural infirmity to draw into the vortex of its own ideas, whatever it can lay hold of, however unsuited to their support. I cannot account upon any other principle for the doctrine maintained by so very learned a person, in his late reply in this place; a doctrine so extraordinary, that I would not venture to quote it from my own memory, and which I shall, therefore, read to you from the note I have been furnished with by my learned friend who sits near me [Mr. Gurney]: a doctrine which I am persuaded the solicitor-general would not, upon reflection, remaintain to be the law; and which, if it were the law, I would not live in the country longer than to finish my address to you. He says roundly, that the law upon this subject is perfectly clear; namely, that any act done (attend, I beseech you, to the expression), "*that any act done which* MAY *endanger the life of the king, is, in the judgment of the law, an act done in pursuance of an intent to compass his death.—That the act is, in point of law, demonstrative of the purpose, and constitutes the crime of high treason; that the imagination of personal harm to the king forms no part of it; and that it is not material whether the person*

* See Hardy's Trial *anté* Vol. 24, p.p. 1089, 1094, 1095.

charged had in contemplation the consequences that might follow from what he did, it being sufficient, independently of all intention, if the death of the king was a PROBABLE CONSEQUENCE *of what he was about to do."*

Gentlemen, one hardly knows where one is after reading so strange and confounding a proposition. The argument, in short, is neither more nor less than this—That if I do an act, though with the most innocent mind, and without contemplating that any danger can possibly touch the king; nay, more, if from a mistaken zeal I do an act from which the jury are convinced that I honestly conceived his person would be safer, and his reign more secure and illustrious; yet, *if not in the event*, but only in the *opinion of lawyers*, my conduct led to the direct contrary consequence, I am to be adjudged in law a compasser of the king's death.—I am to be found, in point of law, *to have intended what I never thought of*; and a jury, whose province is to declare the FACT, is to be bound in conscience to find me guilty of designing the king's death, though their consciences inform them, from the whole evidence, that I sought nothing but the health of his person, and the honour of his crown.——Gentlemen, this is such a monstrous, horrible proposition, that I would rather, at the end of all these causes, when I had finished my duty to their unfortunate objects, die upon my knees, thanking God that, for the protection of innocence, and the safety of my country, I had been made the instrument of denying and reprobating it, than live to the age of Methusalem for letting it pass unexposed and unrebuked. It may be curious to examine to what conclusions this doctrine of a lawyer's speculation upon probable consequences, shutting out the examination of actual intention, might lead. It is part of the evidence before you against the honourable gentleman at your bar, that a proposition was made to, and adopted by, the Constitutional Society to send a delegate to the Convention at Edinburgh; and you have been desired, from this measure, and others of a similar bearing, to find an intention to destroy the king, from the probable consequence of such proceedings. Let us try the validity of this logic—The Society of the Friends of the People (some of whose proceedings are in evidence) had a similar proposition made to them to send a delegate to this same convention, and the measure was only rejected, after a considerable degree of debate. Suppose, then, on the contrary, they had agreed to send one, and that I, who am now speaking to you, had been of the number who consented, I should then have been in a worse predicament than my client, who appears to have opposed it; I should have been found to have consented to an act, which, *according to some legal casuists*, had a tendency to destroy the king; and although my life was laboriously devoted to the duties of my profession, which cut me off from attending to the particular conduct of reformers, though approving of their general and avowed object, Mr. Yorke's speech at Sheffield, and all the matter besides which has consumed our time and patience for three days past, would have been read to establish my conspiracy with people whom I never saw or heard of in the course of my existence. It is, besides, equally high treason to compass and imagine the death of the heir apparent, as the death of the king; and if the nature of the conspiracy was to reach the king's life, by subverting the government, its subversion would lead as directly, in its consequence, to the destruction of his successor, and consequently would, upon the acknowledged principles of law, be a compassing of the death of the Prince of Wales. See, then, to what monstrous conclusions it would lead, if an act could be considered as legally conclusive of an intention, instead of examining it with the eye of reason, and as a fact from the circumstances attending it. It so happened that at this very time, and though a member of this society of reformers, I was attorney-general to the Prince; sworn of his privy council; high in his personal confidence; and full of that affection for him which I yet retain.—Would it have been said, gentlemen (I am not seeking credit with you for my integrity), but would it have been said without ridicule, that a man, placed as I was in a high situation about the heir apparent of the crown, who had at once the will and the privilege to reward my services; that I, who was serving him at the very moment in terms of confidence and regard, was to be taken conclusively, *as a judgment of abstract law*, to be plotting his political destruction, and his natural death?

This doctrine, so absurd and irrational, does not appear to me to be supported by any thing like legal authority.

In the first place, let it be recollected that this is an indictment on a statute, and not upon the common law, which has the precedents made by judges for its foundation;—the rule of action here depends upon a WRITTEN UNALTERABLE record, enacted by the legislature of the kingdom for the protection of the subject's life, and which the judges upon the bench have no right to transgress or alter a letter of, because other judges may have done so before them. As far as the law stands upon tradition, it is made by the precedents of judges, and there is no other evidence of its existence; but A STATUTE is ever present to speak for itself, in all courts, and in all ages; and I say with certainty—speaking in my own name and person, and desiring to stand or fall as a professional man, by what I utter, that the law is as I maintained it upon the trial of Thomas Hardy, and as I maintain it now. I admit that a statute, like the common law, must receive a judicial interpretation; and that, wherever the letter of an act of parliament is ambiguous, the constructions which have been first put upon

it, if rational, ought to continue to be the rule.—But where a statute is expressed in such plain, unambiguous terms, that but one grammatical or rational construction can be put upon it; when the first departure from that only construction does not appear to have taken its rise from any supposed ambiguity of its expression in the minds of those who first departed from it, which is the general history of constructive departures from written laws, but comes down tainted with the most degraded profligacy of judges notoriously devoted to arbitrary and corrupt governments; when the very writers and judges whose writings and decisions first supported such original misconstructions, honestly admit them to be misconstructions, and lament and reprobate their introduction; when the same lamentation and reprobation of them is handed down from commentator to commentator, and from court to court, through the whole series of constructive judgments: and lastly, when parliament itself in different ages, as the evil became intolerable, has swept them all away; when, to avoid the introduction of new difficulties, it has cautiously left the old letter of the statute standing to speak for itself, without any other commentary than the destruction of every one that ever had been made upon it, and the reversal of every judgment which ever had departed from its letter, concluding with the positive prohibition, in all future time, of the one and of the other:—in such a case, I do maintain, and, as an English lawyer, feel myself bound for the public safety to declare, in opposition to whatever authorities may be found to the contrary, that if the statute of Edward 3rd, can be departed from by construction, or can be judged otherwise THAN IF IT HAD PASSED YESTERDAY, there is, properly speaking, no such thing as written law in England.*

Gentlemen, you will find me justified in what I say by the language of the statute itself, which is clear and unambiguous, and by the declarations of its genuine meaning by subsequent parliaments.

The words of the statute of the 25th of Edward 3rd, are these:

"Whereas divers opinions have been before this time, in what case treason shall be said, and what not—the king, at the request of the Lords and Commons, has made a declaration as hereinafter followeth:

"When a man doth compass or imagine the death of our lord the king—or of our lady his queen; or of their eldest son and heir; or if a man do levy war against THE KING in his realm, or be adherent to the king's enemies in his realm, giving them aid and comfort, and thereof be proveably attainted of open deed by people of their condition."

* Of the extent of the authority of adjudged cases, some consideration is had in a note to Richard Thompson's Case, Vol. 8, p. 78, of this Collection.

The reason of passing it, as expressed by the act itself, and by lord Hale and lord Coke in their Commentaries, demonstrates the illegality of any departure from its *letter*; because it was passed to give *certainty* to a crime which, by *judicial constructions*, had before become *uncertain*. Lord Hale says "that at common law there was a great latitude used in raising offences to the crime and punishment of treason, by way of interpretation; and arbitrary construction, which brought in great inconvenience and uncertainty." Thus, "accroaching of royal power was a usual charge of treason anciently, though a very uncertain charge; that no man could tell what it was, or what defence to make to it." He then proceeds to state various instances of cruelty and vexation, *and concludes with this observation:*

"By these, and the like instances, that might be given, it appears how uncertain and arbitrary the law of treason was BEFORE THE STATUTE of the 25th of Edward 3rd, whereby it came to pass, that almost every offence that was, or seemed to be, a breach of the faith and allegiance due to the king, was by *construction*, and *consequence*, and *interpretation*, raised into the offence of high treason."

To put an end to these evils, therefore, and to give to the harassed subjects of England security and peace, this sacred law was made; but for a season with very little effect, because wicked judges still broke in upon its protecting letter by arbitrary constructions, insomuch that lord Hale observes, that although the statute of Edward 3rd had expressly directed that nothing should be declared to be treason, but cases within its enacting letter—"yet that things were so carried by parties and factions in the succeeding reign of Richard 2nd, that it was little observed; but as this or the other party prevailed, so the crime of high treason was in a manner arbitrarily imposed and adjudged," "which by various vicissitudes and revolutions mischiefed all parties, first or last, and left a great inquietude and unsettledness in the minds of the people, and was one of the occasions of the unhappiness of that king." * All these mischiefs, he farther observes, arose from breaking the great boundary of treason by a departure from the LETTER of the statute, which was so great a snare to the subject, that after many temporary acts of parliament passed and repealed, and many vexatious and illegal judgments, clashing with, and contradicting one another, the statute of queen Mary was at last enacted, which swept them all away, and as lord Coke observes, in his commentary upon it, in the second institute, not only set up again the very letter of the statute of the 25th of Edward 3rd, but repealed all judicial interpretations past and prohibited all recurrence to them in future.

I will give it you in his own words: "In this

* 1 Hale's P. C. ch. xi.

statute of Mary two things are to be observed. First, that the word expressed in the statute of Mary excludes all implications or inferences whatsoever. Secondly, that no former attainder, *judgment, precedent, resolution, or opinion of judges or justices, of high treason, other than such as are specified and expressed in the statute of Edward 3rd, are to be followed or drawn into example.* FOR THE WORDS BE PLAIN AND DIRECT—'That from henceforth 'no act, deed, or offence shall be taken, 'had, deemed, or adjudged to be high trea-'son, but only such as are declared and ex-'pressed in the said act of the 25th of Edward '3rd, any act of parliament or statute after the '25th of Edward 3rd, or any other declaration 'or matter, to the contrary notwithstanding.'

I do therefore maintain, that the statute of king Edward 3rd, plain in itself, and rendered still more so by the parliamentary exposition of the act of queen Mary, is A PEREMPTORY RULE, and that no appeal can be had upon the subject to any writers or decisions, whatever may be the reputation of the one, or the authority of the other

I find nothing, however, in any writer of character, or in any decision, which deserves the name of authority, to which such an appeal could successfully be made Lord Hale no where says, that a conspiracy to subvert the *government*, or any rebellion, pointed merely at the king's *royal authority*, is high treason within this branch of the statute. He uniformly considers the crime as a design against the king's NATURAL LIFE; and treats nothing even as an overt act of it, that is not so pointed against the king's PERSON, as to be legal evidence of a conspiracy against his EXISTENCE. "If men," says Hale, "conspire *the* DEATH *of the king*, and thereupon provide weapons, or send letters in the execution of it, this is an overt act within this statute." Undoubtedly it is—but mark the principle, and attend to lord Hale's language, which is plainly this:—If men conspire the DEATH of the king, and do these things in execution of the conspiracy, the things so done are *legal evidences* of the treason: but the treason, which is the intention of the mind against the king's life, must first exist, before any step could be taken in pursuance of it.

Another passage in lord Hale, upon which the whole argument against us appears in a manner to be built, is, in my mind, equally clear, and perfectly consistent with the letter of the statute:

"If men conspire to imprison the king BY FORCE AND A STRONG HAND, until he has yielded to certain demands, and for that purpose gather company, or write letters, is an overt act to prove the compassing the king's death; for it is in effect to despoil him of his kingly government, and was so adjudged by all the judges in the lord Cobham's case."

Here, you observe, that the conspiracy, even to imprison the king, is not stated as a substantive act of treason, independently of a design against his life, but only as an overt act to prove the compassing of his DEATH; and so far was Hale from considering that constructive attempts upon the king's *government* or *authority*, without direct force pointed against his *person*, could even be offered as evidence to support an indictment for compassing his death, that he seems anxious to prevent the reader from running to such a conclusion; for he immediately afterwards says, "But then this must be intended of a conspiracy *forcibly* to detain and imprison the king."*

Gentlemen, I have only troubled you with these observations, to prevent any thing which has been offered as evidence upon this trial, from being at all confounded in your minds, as connected with the charge.—We have indeed attempted nothing against the king's *government*; but leaving that still to be the question, there is not a tittle in the whole body of the proof, which has any the remotest relation to any conspiracy to *seize* the king, or to *depose him*, which alone could support a charge of compassing the king's death; for the indictment itself does not point even to any conspiracy to depose the king directly by force against his person, but only constructively, through the medium of a subversion of the government.

Gentlemen, the charge, therefore, which the crown seeks to bring home to us, not only as it is to be collected from the indictment, but as it is explicitly pointed by the argument, is this—that a design was formed to call a convention of the nation, and that the prisoner at the bar was engaged in it; that he consulted with others for the appointment of committees of co-operation and conference, consisting of the persons now in prison, who were delegated by the two great London societies at the head of the conspiracy; and that the convention, which was to be assembled as the result of this confederacy, was to destroy, by force, the legal government of the country, and to form itself into a legislature for the nation: thereby superseding, not only the functions of the three branches of parliament, but the executive authority of the crown:—that this, and this alone, was the secret object of all these societies, though covered with popular pretexts of restoring the constitution, until their machinations should be sufficiently ripe to throw off the veil, to avow their principles, and to establish them by force: that this, therefore, amounted to a conspiracy to depose the king, which was an overt act of high treason for compassing his death.

Gentlemen, I am sure I have done justice to the crown in my statement of its proposition; and I will be equally just in my answer to it.—For I admit, that if the attorney-general satisfies you *upon the fact*, that this proposition is true, he gives you evi-

* 1 Hale's P. C. ch. xiii.

dence from whence it ought to be left for your very serious judgment, whether those who were engaged in a conspiracy to usurp the king's authority, might not be reasonably supposed to have also contemplated his destruction, which was so likely to follow from the annihilation of his office. I desire it may be remembered, that I have never denied, either now or upon the former trial; that the destruction of the king's natural life was not a probable consequence of a forcible coercion of his person, for the extinction of his authority; nor that an act done with deliberation, leading to a mainly probable consequence, is not good EVIDENCE *of the intention to produce that consequence.* My whole argument has only been, and still is, THAT THE INTENTION AGAINST THE KING'S LIFE IS THE CRIME, THAT ITS EXISTENCE IS MATTER OF FACT, AND NOT MATTER OF LAW, AND THAT IT MUST THEREFORE BE COLLECTED BY YOU THE JURY, INSTEAD OF BEING MADE THE ABSTRACT RESULT OF A LEGAL PROPOSITION, FROM ANY FACT WHICH DOES NOT DIRECTLY EMBRACE AND COMPREHEND THE INTENTION WHICH CONSTITUTES THE TREASON.

But, that this is the law of England, and the law immediately applicable to the present question, fortunately does not depend upon any argument of mine, nor upon any appeals I have made to the authoritative writings of the sages of the profession. I have a much better security for my purpose—the security that what his lordship, who is to assist you in your deliberations, has said upon one occasion, he will say upon another; I have the express and direct authority of lord chief justice Eyre, in that part of his charge to the grand jury, where he laid before them the very matter we are now engaged in for their consideration. "If," says his lordship, "there be ground to consider the professed purpose of any of these associations, a reform in parliament, as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country; the case of those embarked in such designs is that which I have already considered. Whether this be so or not, is MERE MATTER OF FACT; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a mere veil, under which is concealed a traitorous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be *perfectly clear and satisfactory.* In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence."* This the learned judge lays down with the greatest propriety as a general rule of evidence, applicable to all cases, and therefore most emphatically applicable to high treason, where the prisoner is not to be criminated by conjectures, and inferences, or strains of wit, but proveably attainted according to the language of the statute. It must be remembered, too, that this sound and salutary doctrine was not delivered by the court as an *abstract proposition*, but the application of it was *directly pointed to the occasion*, and given to the grand jury, as a standard to direct their judgments *in the very matter before us.* The cause, therefore, is brought beyond the power of evasion or controversy, to one short point, disentangled from all ambiguity or legal distinction: since upon the express authority of the Court which sits to try the prisoner, independently of all other authorities, it is a mere naked question of *fact* which YOU are to examine:—there is nothing which can affect him *legally*, or which, it is even contended, can affect him, unless *you* are prepared to say, upon your oaths, in the presence of God and your country, that you have materials in evidence before you, from whence you feel yourselves bound in conscience to pronounce, that the parties who engaged in the proposition of holding a convention, did NOT engage in it according to their professions to collect the public opinion upon the subject of national abuses, and for the consideration of constitutional redress, but for the direct, though concealed purpose, of resisting, BY FORCE, the authority of parliament. I repeat the expression, of resisting, BY FORCE, the authority of parliament, and assuming to themselves the control and dominion of the nation. THIS IS THE FACT TO BE MADE OUT, AND THE BURDEN OF THE PROOF IS UPON THE CROWN.—I do not stand here to disprove, but to examine what has been proved; and I confess myself, therefore, to be utterly at a loss how to pursue my discourse—for you have heard nothing upon which you would pull a feather out of a sparrow's wing. There is not only no evidence upon which reasonable men might deliberate between a verdict of Guilty or Not guilty, but, literally, NO EVIDENCE AT ALL;—nothing that I could address myself to, but through the medium of ridicule, which, much as it would apply to the occasion in other respects, it would be indecent to indulge in upon a great State Trial, so deeply concerning the dignity of the country, and so seriously affecting the unfortunate persons whom I shall be called upon to defend hereafter.

Let not, however, this condition of a prosecution, commenced under such exalted auspices, depend upon my single assertion, but let it be brought to the test of examination.

The attorney-general contends, that he has made out PROVEABLY, *i. e.* without the possibility of a reasonable doubt, that this convention was projected for the detestable purpose charged by the indictment; and that their avowed objects were nothing but a surface of colour and deceit. He says, that

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* See Hardy's case, *ante* Vol. 24, p. 205.

two societies were set on foot in this town for these traitorous objects: that one of them (the Constitutional Society) was instituted by Mr. Tooke, and that he organized and superintended the others:—that he prepared their resolutions:—that he superintended their correspondence with similar societies, which were established at Sheffield, Manchester, Birmingham, Edinburgh, Perth, and most of the populous towns in both parts of Great Britain; and that the whole body of their communications with one another manifested their design against the very being of the government. This is the proposition—but has he proved it, or any part of it? I answer—he has not.—In the first place, did Mr. Tooke set on foot the Constitutional Society? —I answer again, he did not.—It was instituted by a most worthy and honourable person, who will be called before you as a witness, if you shall not think your time mispent in hearing evidence where nothing has been proved: it was instituted by major Cartwright a man as much attached to the constitution of his country, and as enlightened to understand it, as any one who hears me, whatever may be his station. This assertion is not made from the instructions of a brief; I speak from my own knowledge of the man: major Cartwright, who began that institution, continued to be a member of it during the progress of its proceedings arraigned before you; he is a member of it now; and he will tell you, that he shall continue to be one, notwithstanding this prosecution, until its objects are accomplished.

The Constitutional Society was instituted by this gentleman, for the object which it has uniformly professed and adhered to—an object which it pursued in common with some of the greatest and wisest men which this country has for ages produced; it was instituted to produce, if possible, by the progressive influence of public opinion, a reform IN THE COMMONS HOUSE OF PARLIAMENT; a measure certainly not originated by major Cartwright, but forced by the corruptions of parliament itself, and the consequent calamities of our country, upon the attention of every enlightened statesman during the present reign. The father of the present minister uniformly and publicly imputed the calamities of Great Britain to this fatal source. The succession of destructive wars, without a national object;—the rash and improvident expenditure of public money; the ravages upon the constitution by the influence of the Crown—were all of them ascribed by this great statesman to the loss of that control in the people, over the proceedings of parliament, which they were entitled to by the ancient principles of the constitution. The great earl of Chatham was one of the first persons who called the attention of the public to the absolute necessity of a reform in parliament, to redeem the nation from ruin; it was the great feature of his life, and the foundation of his fame.

As the avowed objects of the society were thus originated and countenanced by persons of the highest station, let us see whether it was instituted for the perversion of these principles by obscure and necessitous men:—gentlemen, the contrary is most notorious; and it may be established by referring to the names of the original members; the duke of Richmond was one of the earliest; and he pushed the principle and the practice of reformation very much farther than Mr. Tooke has ever been disposed to follow him; a fact which I promise to establish by the uniform tenour of his life. Mr. Tooke considered the disposition of the popular franchise of election as matter of expediency in government, and to be moulded by parliament in its discretion for the attainment of constitutional freedom; the duke, on the other hand, considered universal suffrage to be an inherent privilege of the people—to be CLAIMED by them AS OF RIGHT, and not yielded to them as an indulgence. It is not to be wondered at, therefore, that his grace's doctrine should acquire the ascendancy; since, independently of his illustrious patronage, they were more flattering, and better calculated for a rapid progress. I agree with the duke of Richmond, that there exists in the people of England, as in every people, an inherent right to be governed according to the universal assent of the community; but I think that the people would judge weakly for themselves by desiring their representatives to carry forward to the Crown, for its ratification, the system of UNIVERSAL suffrage. Yet, while I say this, as Mr. Tooke's sentiments, and as my own, I confess, at the same time, that the arguments by which the duke of Richmond supported his system, and which has been uniformly followed by all the other prisoners, were not calculated to impose upon the ignorant, but are well worthy of attention and consideration from the wise. The duke's argument was of this sort (I do not profess to adopt the very phrase)—"When it is conceded," says his grace, "that *some* reform of parliament is indispensably necessary for the safety of the country, *who* is to insure a reform that will give general satisfaction, and produce obedience and stability? If you go to a given extent, founded upon principles of expediency, others, upon the same principles, will seek to push it to an extent still farther, and others to an extent beyond that; so that reformation, however pure the desire of its author, instead of giving firmness and vigour to government, would only be the parent of discontent." This was the difficulty which occurred to the duke; and out of it he saw no road, as he himself expresses it, but a reform upon principle, which grants nothing from expediency or favour, "BUT WHICH GIVES TO EVERY MAN HIS OWN." These were his grace's doctrines, as I shall read them presently from the work which he acknowledged in the course of his former evidence,

and which appears, throughout the whole cause, to have been THE VERY SCRIPTURE OF ALL THESE SOCIETIES. These, I doubt not, are his grace's opinions still; for though a man may change his sentiments in matters which depend upon policy and expediency—though he may think it prudent to grant at one time that, which farther reflection may suggest to be unwise to be granted, yet no honest man can change his mind as to the propriety of giving to every man what he believes and acknowledges to be his own. But the duke of Richmond's opinions are not the question: it is sufficient for me, that when these opinions were published, and for a long time insisted on by this intelligent and illustrious person, no man living thought of imputing, or can now reasonably impute, to him a design to overturn the constitution, or to enervate its functions, Yet you are now called upon to devote to infamy and death the gentleman whom I am defending, not indeed for treading in the duke of Richmond's steps—not indeed for adopting the plan of universal suffrage, or for following it up by the same means which the duke has recommended, but for shrinking to a plan far more restrained and moderate, and declining even to effect that system of moderation, by the procedure which the duke both inculcated AND PRACTISED.

But it seems all these doctrines and proceedings are but *colour and deceit*, manifested by the discipline and regularity of their siege against the character and authority of government. The conspirators sat, it seems, by *delegated authority*, from multitudes too large for consultation;—they did so, certainly; still pursuing the example, in form as well as in substance, of the highest men in the kingdom, among whom, by-the-by, are to be found many of the members of that government which has levied this prosecution. I will prove to you (for I have now in Court some of the first and most honourable men in the kingdom to prove it), that in the year 1780, the very same plan of delegation from large bodies was adopted, and for the identical object of correcting, by the formidable engine of public discountenance and censure, the improvident expenditure of public money, wrung from the people by corrupt influence in the House of Commons. I will prove, that for the express and avowed purpose of reforming the government of the kingdom, these honourable persons, who were never accused or suspected of treason, sat in convention in the Guildhall of the city of London; delegates for different districts were appointed, some of whom are now in my eye; and you will find, in short, that no one step, in form or in substance, has been taken by the unfortunate persons who are now the subjects of this prosecution, that were not taken, and, in my opinion, legally and constitutionally taken, by their superiors, whose examples they have followed. Let my expressions be properly understood; I stand upon a great theatre, and should be sorry to say any thing which I can have occasion to recall. Let it be recollected, that I am not defending *all the papers* which have been read; some of them are rash and absurd in the extreme; many of them are indecent; many of them clash with one another, which is not surprising, since they were written by persons of various descriptions, who had no communication with one another. But that is not the question—the question is, *what were the objects of these societies, from the result of the whole evidence?* These papers are *not* prosecuted as libels, but are charged to have been written *with the intention* to promote a convention to supersede and assume the government. But will any honest man say, that he can collect from these writings, *taken in a mass*, and as indicative of the pursuits of their authors, any such intention or system? on the contrary, it is impossible to listen to them with common candour and attention, without observing, that the needle is not truer to the pole, though, when it is disturbed and agitated, it oscillates round the point of its attraction, than these poor people were to the promotion of reform IN THE COMMONS HOUSE OF PARLIAMENT, by collecting the sense of the people on the subject; conscious that though parliament, as the duke of Richmond expresses it, would not *spontaneously* yield what those who sway it have a corrupt interest in refusing, yet that it might be obtained by that which must, and will in the end, obtain every thing from any government, however constituted—the slow, gradual, and progressive effect of public opinion;—this was their object—and I do maintain here, in my own person, that it is the privilege of Englishmen so to collect the opinion of the country; and that it is the duty of parliament, nay, its very use and office in the state, to attend to, and to give effect to the opinions so collected.—An eminent person [Edmund Burke] whose writings I have often had occasion to cite, expresses this sentiment with admirable justness and force—"The virtue, spirit, and essence of a House of Commons consists in its being the express image of the feelings of the nation. It was not instituted to be a controul UPON the people, as of late it has been taught, by a doctrine of the most pernicious tendency. It was designed as a control FOR the people."* "The House of Commons was supposed originally to be *no part of the standing government of this country*. It was considered as a *control*, issuing *immediately* from the people, and speedily to be resolved into the mass from whence it arose."†

* Thoughts on the Cause of the Present Discontents, Burke's Works Vol. 2, p. 288, 8vo. edit. of 1801.

† Thoughts on the Cause of the Present Discontents, Burke's Works, Vol. 2, p. 287, 8vo. edit. of 1801.

To bring back the House of Commons to this genuine office and character, by fixing the public attention to its departure from it, was the obvious drift of all the proceedings of the societies, as they are fairly to be collected from the evidence. Undoubtedly there are among the papers strong invectives against unbridled monarchies, because they were written while monarchs, having no law but their unbridled ambitions, were laying waste the liberties of the world;—there are, I admit, strong censures upon those corruptions which have embarked this country in a system (as they thought it) of tyranny and injustice; but there is nothing in them which touches the king of Great Britain's majesty or office, or the hereditary dignity of the Peers; there is nothing which glances at a wish to introduce a republic into England: there is strong democracy, indeed, but it is confined to its proper sphere—to the restoration of the House of Commons, WHICH IS THE CONSTITUTIONAL DEMOCRACY OF ENGLAND.

The House of Commons is perpetually talked of as if it were a self-existing body, independent of the people; whereas it is their mere agent; the organ by which they speak and act; and which betrays and abdicates its trust the moment that it assumes a language of its own, which the people do not auspicate and approve. Take away *such* a House of Commons from the British government—remove the control which the people have in it upon the executive authority by the free choice of their representatives, and then tell me how it differs from the most despotic establishments, which are the just detestation of the world. Yet how can it be asserted that the people of England have that control, if they have not the free choice which bestows it? The Society of the Friends of the People, part of whose proceedings the crown has thought fit to make evidence, and to speak of with respect, have placed upon the Journal of the House of Commons, and demonstrated by positive evidence, this fallen, humiliated condition of the country. They offered to prove, that Peers and the treasury actually nominate ninety members, and procure, by influence, the return of seventy-seven more, making together one hundred and sixty-seven: that ninety-one individual commoners in the country procure the election of one hundred and thirty-nine, and that one hundred and sixty-two individuals absolutely return three hundred and six members, a majority of the entire House of Commons.

Gentlemen, this is no vague assertion of mine—I am reading the precise state of it, as it was offered by a regular motion in parliament, which I had myself the honour to second:* we offered to establish, that one hundred and sixty-two persons did actually return three hundred and six out of five hundred and fifty-eight, which is a majority of the House. So that every thing that is to bind and ascertain your rights or mine;—every measure that is to promote the glory, or to bring on the destruction of the country;—every act or system of government, which is either to give us the continued prosperity of peace, or to afflict us with wasting and calamitous wars;—every event that may render this mighty nation flourishing and happy to the latest posterity, or bend it down to the ignominious yoke of foreign or domestic enemies; all these heartstrings of a people, instead of depending upon a House of Commons, proceeding from themselves, are to be pulled and torn asunder, as the caprice or interest of one hundred and sixty-two individuals, who choose representatives for the whole kingdom may suffer or direct. Yet we are told that it is the pride and glory of the English government that by law we are equal, living under the same sanction, and enjoying similar privileges.

Gentlemen, all this was made manifest to the House of Commons by the honourable gentleman * who made the motion I allude to, and who held a language which the meanest man in England can understand. His language was this—"I assert this to be the condition of England; if you say it is *not*—do justice to yourselves by calling upon us for the proof, and expose your calumniators to reproach—but if it *be* the condition of England, shall it not be redressed." Gentlemen, the proof was not received, and the grievance continues. This is the clue to the whole evidence.

I do not mean, therefore, to say (and let it be understood that I have not said), that my clients would not be equally guilty, and equally subject to capital punishment, if, under the irritation of this or any other grievance, they had said—Let us supersede this surreptitious parliament, and hold a convention to assume its functions.—When I asserted that the people in this, and in every country, had a right to change their government, I never meant—what must have been supposed by the Court, from the indulgent interruption I received—I never meant that each individual, choosing for himself, might rise in arms to overturn, by force, an established constitution—Far from it, gentlemen—I meant to say—what the people of England will be the last to misunderstand, as they were the first to practise—that all governments stand upon the public will, and ought to endure only for the public benefit; and that when this sacred maxim is forgotten, or trampled upon, a nation, without the conspiracy of individuals, which criminal law can act upon, will, sooner or later, *do itself justice*. I meant farther to say, that when I observe men referring to these great and original principles of society—when I see them recurring, in argument, to

* See the New Parl. Hist. Vol. 30, pp. 787, *et seq.*

* Mr. Charles Grey; afterwards [second] Earl Grey.

the deeds of freedom which their ancestors have achieved—when I see Englishmen particularly referring to the glorious era of the Revolution, when their fathers drove from the inheritance of the crown a race of kings which had reigned over them almost time beyond memory, and sent for a private man *(to them at least)* to govern in their stead—when I contemplate this disposition, I am so far from considering it to be an attack on the king's authority, that, in my mind, it is a fresh confirmation of, and exultation in his title;—His majesty is the king of the people, upon the principle alone that the people can change their kings; and it is the most glorious title which any prince can enjoy. THESE ARE MY SENTIMENTS.—I love the king, but I can have no other respect or affection for him than that which grows from the common relation of prince and subject—But speaking of *him* who by the course of nature is to succeed him, and feeling much more than a common interest in *his* prosperity and glory, I hold the same language, and have ever, publicly and privately, held it. If he is not to inherit and to fill the throne upon that best and most honourable title, his inheritance is not worth having, and is not long to be had.—They who act upon any other principle, betray the king, and endanger his establishment.—Say to the people of England, this is your constitution—It is not fastened upon you as a weight to crush you—but has descended to you from your wise forefathers, for your protection and happiness—It is *their* institution, the work of their wisdom, and their heroic valour—As they made it for themselves and their posterity, so *you* may change it for you and for yours.—BUT WILL YOU WANTONLY DESTROY YOUR INHERITANCE? Say this to them, and, to use the expression of a celebrated speaker,* in the case of America, "They will cling and grapple to their constitution, and no force under heaven will tear them from their allegiance to it."† Let those, then, who govern the country, beware how they propagate the fashionable doctrines of corrupt power.—Let them recollect that the English people are generous and enlightened, and know the value of their own institutions.—Treat them with liberality, confidence, and justice, and nothing is to be feared.—But if, on the other hand, a system of constraint and terror is to be pursued, and one part of the nation frightened or corrupted to defame the other, I tremble to think of,—I dare not give utterance, in this place, to the consequences.

This was foreseen by the duke of Richmond, and was the avowed and wise reason for his earnestness in the cause of reform; and he so expresses it in his publication, which the whole proof has demonstrated to have been the cause and the model of all the proceedings before you:—why then are *their* motives assumed or argued, against the whole evidence, to be different? I will read the passage:

"The lesser reform has been attempted with every possible advantage in its favour; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps it has failed. Not one proselyte has been gained from corruption; nor has the least ray of hope been held out from any quarter, that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan, in the same circumstances. From that quarter, therefore, I have nothing to hope." *From what quarter was there nothing to hope?* From the House of Commons, which had been tried, in which not one proselyte had been gained from corruption. What then was his resource? I shall give it to you in his own words: "It is from the people at large that I expect any good. And I am convinced that the only way to make them feel that they are really concerned in the business, is to contend for their *full, clear, and indisputable rights of universal representation.*" Rights that are repugnant and contradictory cannot exist. If there be a right in the people to universal suffrage, it is the government which conspires against the people, and not the people against government. But my client offers no such argument—*he differs totally from the duke of Richmond;* and therefore, when his grace comes here to give evidence, he ought not, upon the only principle which can justify these proceedings, to be permitted to retire; since he has written and done ten times more than can be imputed to the unhappy, miserable men who are now languishing in prison, for following much less than his example. His grace, in the same paper, expresses himself farther, in these remarkable words:—"When the people are fairly and equally represented in parliament, when they have annual opportunities of changing their deputies, and, through them, of controlling every abuse of government in a safe, easy, and legal way, there can be no longer any reason for recurring to those ever dangerous, THOUGH SOMETIMES NECESSARY, EXPEDIENTS OF AN ARMED FORCE, WHICH NOTHING BUT A BAD GOVERNMENT CAN JUSTIFY. Such a magnanimous end to your proceedings, when, after having restored liberty, commerce, and free government to your country, you shall voluntarily retire to the noble character of private citizens, peaceably enjoying the blessings you have procured, will crown your labours with everlasting glory, and is worthy the genuine patriotic spirit which animates the Irish volunteers." Let it not be forgotten that this letter was

* Edmund Burke.

† Speech on moving Resolutions for Conciliation with America. New Parl. Hist. Vol. 18, p. 534.

addressed to colonel Sharman, commanding a large armed force in Ireland, without commission from the crown.

Gentlemen, it is amazing the different effect which *the same writings* have, according as *the author* happens to be cited when the work is read. If this letter, which, coming from the pen of the duke of Richmond, is only a spirited remonstrance against corrupt ministers, had been read in evidence by Mr. Shelton at the table, as the letter of citizen Margarot, Skirving, of Yorke, the whole mass would instantly have been transmuted into high treason against the king.

But it seems that their objects were different—for that it is plain they had abandoned the constitutional mode of petition, which was alone recommended in this letter. I maintain that this imputation is directly in the teeth of the whole body of the evidence. All the witnesses, both now, and upon the former trial, and the witnesses too for the crown, prove the very reverse;—they all say that they looked to success through the slow operation of reason;—that they knew the House of Commons would disregard, as it had often disregarded, the scattered petitions of *small numbers;* but that if they could collect the *universal sense of the people* upon the subject, the success of their object would be insured, and insured through the regular organs of government. How else were the questions on the slave trade carried?—Parliament had treated the measure, in its origin, with contempt; and I must say, that the arguments against its sudden or speedy abolition were so weighty, in my mind, that I could not give my assent to it; because I knew, from an acquaintance with the islands, that part of the evidence was erroneous and exaggerated, and because I thought the white population totally inadequate and insufficient to maintain the settlements established under the faith of the nation; but when at last the great voice of the people of England came to be collected together—when parliament was surrounded, not with arms, but by petitions—I recollected that I was a representative of the people, and that my opinion ought to be controlled by the judgment of the nation. Many others, I believe, conducted themselves upon the same principle. The constituents of any given member have no right to control his judgment, BUT THE VOICE OF THE PEOPLE OF ENGLAND, UPON ANY SUBJECT, OUGHT TO BE A RULE TO THE HOUSE OF COMMONS. These very petitions, upon the subject of the slave trade, were collected too in the very manner which now gives such mighty offence: they were managed by delegation and committees of conference and co-operation in every part of the kingdom.

Let us next examine what part of the offence, upon the principles it is contended to exist, applies peculiarly to the unfortunate prisoners who have been selected for criminal justice; and if their guilt can be established, let us see how many are to be involved in it; for Mr. Attorney General is a person of too much wisdom and experience to impute to the seven people in Newgate the design to call a parliament without a wide-spread combination. How then is the line to be drawn? And to what circumference is the empire of destruction to extend? If the evidence of the conspiracy is to be collected from the whole mass and tenour of the conduct of these societies, and is to attach upon the prisoners, not from any specific acts of their own, but principally because they belong to some one of them as members, it is plain that all who have at any time belonged, or yet belong to them, are equally implicated in guilt, and equally subject to death under the law. How many tenants at the will of the ministers are upon this principle to hold their lives in Great Britain? All the hundred and eighty delegates who met at Edinburgh, and all the thousands who sent them, are of that description; and thousands more in every populous town in this part of the kingdom.

Let every man, therefore, be responsible for his own acts, and not for the writings and opinions of others, and more especially of others whom he never saw or heard of. When men co-operate for some PUBLIC object, which in common they agree in, it can never happen that they shall agree in *every thing* belonging to it; nor are a man's opinions ever to be taken, even by the result of the resolutions of those with whom he associates for an avowed object.—I shall exhibit to you a proof of this in one of the most enlightened men that England ever bred, and to whom she owes unparalleled obligations. I mean to call Mr. Fox, who will tell you that he was a delegate for Westminster, in the year 1780, when a convention was held to consider of the best means for obtaining a reform in parliament; his opinions were always adverse to universal suffrage, yet, nevertheless, his name appears to the petition which asked it of the House of Commons, being signed to it as chairman of the body; governed by its majority, and bound to give effect to its proceedings. In the same manner vicious men may mix themselves among the honest, with the ulterior design of establishing evil upon the basis of what is good: it ever must be so in all the transactions of the world; and parts of the evidence may lead to a suspicion, that it might be so in the present instance; but for that very reason a jury ought to be the more abundantly cautious of the effect of foreign and irrelevant matter; and should examine into each man's guilt or innocence, by his own individual conduct.

Gentlemen, I have hitherto insisted upon the views of the Constitutional Society as they are to be collected from its origin and its acts; and I am equally prepared to show (indeed it most decisively appears already, by every thing which has been proved by the

crown), that the objects of the Corresponding Society were precisely similar; that they were avowed by their original institution, which they published to the world; and which, though published upwards of three years ago, and though ever since in most extensive circulation, were not by the crown even considered as in any respect injurious or illegal;—yet now, after having for all that time been transcribed into every newspaper, and sold publicly by every bookseller in the kingdom, without even a common information being put upon the file against any printer for a libel, they have been suddenly got together, not against their authors, but against a stranger to their very existence, and have furnished the elaborate commentary upon the statute of high treason, which you have been obliged to listen to for so many days together.

Let us now examine the original institution of the Corresponding Society, and see whether in sobriety and fairness it furnishes the remarks which have been made upon it.

It is charged with the introduction of dangerous novelties—yet on the very front of it where they set out with describing their objects, they say—"Laying aside all pretensions to *originality*, we claim no other merit than that of *reconsidering* what has already been urged in our common cause, by the duke of Richmond, Mr. Pitt, *and their then honest party*, years back, and persevere in supporting with candour and zeal the banners of truth already displayed by them."—Now I ask any person, who will only consent to exercise the common candour of a gentleman (to say nothing of the scrupulous reserve of criminal justice), whether it was possible for a society, whose object was to persevere in the cause which Mr. Pitt and the duke of Richmond had originated and deserted—better or more distinctly to express it. The language is most precise and unambiguous—but it seems that it is all *colour and deceit*;—it may be so—but they who assert that a man's meaning is the very reverse of his expressions, must prove that variance as a matter of FACT, by comparing his conduct with his declarations.—Has any such proof been given in the instance before us? So far from it, that we are now upon the second trial, after the acquittal of Mr. Hardy, who stood before a jury to answer for THIS VERY PAPER, of which he was the AUTHOR, and to which his NAME was signed. The whole object of that trial was to show this variance between the conduct of the society, and this its original and public profession; with what success, the late verdict has recorded: not a witness appeared for the crown who did not prove the very reverse of the imputation; and though possessed as it was of the most private papers of all whom rashness thought fit to suspect, not a scrap of writing was produced to establish any departure from the open avowed objects of their institution: *yet, notwithstanding the acquittal of the avowed author and publisher of this paper, to the expressed satisfaction of the Court and country, it is now read over again as evidence, and vehemently insisted upon with the very same arguments which had been before rejected, with this difference only, that instead of being urged as formerly against him who was accountable for its contents, they are now employed against a gentleman who does not appear from any proof to have been even acquainted with its existence; and who began, and had been pursuing* HIS *object (whatever it was), for years before the paper had a being, which is used to decypher his intentions.* How completely is the lord chief justice's argument subverted, and torn to pieces, by this procedure!—So far from sanctioning the principle, that men are not entitled to the benefits to be derived from a fair construction of their expressions, his lordship told the jury, that, in a case so highly penal, they were not even strictly to be bound by their literal interpretation: yet you are now gravely asked to condemn to death the gentleman at the bar, by taking the meaning to be directly the reverse of what language has established, although all the extrinsic evidence by which alone such a latitude of judgment could be endured, falls in with and supports the ordinary construction of the writing.

The logic by which this mode of judgment is established keeps pace in novelty with the proposition itself: "People may talk of their loyalty," says the solicitor-general, "and of their love for the constitution, when nothing like it is in their hearts. Lord Lovat * did so when he was plotting the destruction of his country." Surely this observation is hardly worthy of so learned a man—Lord Lovat *took up arms against the king;* he was actually taken in open and banded rebellion; and, therefore, to be sure, any thing he might have said or written upon the subject of his principles or intentions could be of no avail: whatever he might have *said or written, his open deed condemned* HIM. If a man holds a knife to my throat to destroy me, it is in vain for him to say he loves me.—But to give the case of lord Lovat any bearing upon the present, you must first prove that our design was to arm; and I shall then admit the argument and the conclusion. But has any such proof been given upon the present trial? It has not been attempted—the abortive evidence of arms has been abandoned—even the solitary pike, that formerly glared rebellion from the corner of the Court, no longer makes its appearance; and the knives have retired to their ancient office of carving. Happy was it, indeed, for me, that they were ever produced; for so perfectly common were they throughout all England, and so notoriously in use for the most ordinary purposes,

* See his trial in this Collection, Vol. 18 p. 529.

that public justice and benevolence, shocked at the perversion of truth in the evidence concerning them, kept pouring them in upon me from all quarters. The box before me is half full of them; and if all other trades should fail me, I might set up a cutler's shop in consequence of this cause.

The next passage of the original institution, which the solicitor-general selected for observation, is precisely of the same sort. It is impossible to support his argument on it without confounding the whole structure of language—If (say they) we can once *regain* an annual parliament, to be fairly chosen by the people, they will then be RESTORED to their just share in the government of their country. The expression is, REGAIN annual parliaments—yet the charge is, that the constitution was to be wholly subverted, and a new and different one established.—How is it possible to REGAIN that which was never before established?—How were they to *regain* that which they were themselves to *invent*, and to *create*?—How was that to be *restored* which *never before* had an existence?

The next accusation against the Corresponding Society is so manifestly and so glaringly unjust, that I feel I have a right to complain of its introduction: though not of its introduction by my learned friends, who were bound to lay before the jury all the materials which the two Houses of Parliament, representing the nation, had adopted upon the subject; the attorney-general was undoubtedly bound in justice to the prisoner, as well as in deference to parliament, not to garble the proceedings, but to submit *the whole of them* to your consideration. I have no complaint against *him, or against any of the honourable men who assist him.* So far from it, I have nothing more at heart, at this moment, than that the impression of my observations should reach beyond the Court, and affect THE ATTORNEY GENERAL HIMSELF, whose candour and integrity I know will be open to receive them. It was impossible he could know what he has learned from the evidence in the last cause, or what he is yet to learn from it in this.—And as I foresee that the most beneficial consequences may arise to others hereafter, from the subject being seen by my learned friend in its true and genuine colours, I shall, whatever may be the labour to myself, proceed in the detection of the fallacies which have been heaped on one another, though many of them have little or no application to the defence in which I am now engaged. My client, indeed, generously imposes this burden: as he looked only to the general happiness, in the conduct which brings him a prisoner before you, without any possible view of advantage to himself, so he now looks anxiously round him with the same generous and independent spirit, and enfeebles, by expansion, the argument of his own innocence, that it may extend to protect the innocence of others, and to vindicate the freedom of his country.

Gentlemen, the accusation which the House of Commons made part of its report, and the injustice of which I complain is, that the Corresponding Society had no sooner been established, than a society at Norwich wrote to them to know the object of their institution; and that so conscious were they that their designs were different from their public professions, that, instead of at once appealing to their printed institution, to speak for itself upon the occasion, they wrote a dark, guarded, enigmatical letter, in order to conceal a purpose which could not with prudence or safety be revealed. I confess, I never in my life was so much surprised as at the impudence and falsehood of this assertion; for I maintain, that it is not possible for language to furnish an answer more explicit, nor one that in more direct terms *did* appeal to their public declarations for their designs. I will read to you the very words of the correspondence: the Norwich Society say—"Our principal design in writing, is, that we may have an opportunity of knowing more exactly what may be thought the most eligible steps to be taken, in carrying on this great business of our associated brethren, and to have an opportunity to ask such sort of questions as may be thought very reasonable among the brethren; especially when we think that publications are covered with a sort of obscurity in it, as the Sheffield people's declaration, which seemed determined to support the duke of Richmond's plan only; but since we find, in a printed letter received from them in a book, that they mean to abide by some moderate reform, as may hereafter be brought forward by the Friends of the People, which method is uncertain to us. Again, we find that the Friends of the People, and the Society for Constitutional Information, do not exactly agree;—we could be glad to know the reason. It seems to me as though the difference was this—the Friends of the People mean only a partial reform, because they leave out the words expressing the duke of Richmond's plan, and talk only of a reform; while the Manchester people seem to *intimate, by addressing Mr. Paine, as though they were intent upon republican principles only.* Now, to come closer to the main question, it is only desired to know whether the generality of the societies mean to rest satisfied with the duke of Richmond's plan only; OR WHETHER IT IS THEIR PRIVATE DESIGN TO RIP UP MONARCHY BY THE ROOTS, AND PLACE DEMOCRACY IN ITS STEAD."

This is the letter, the language of which has been so mightily relied upon, and which is printed in italics and capitals in the reports of both Houses of Parliament. But what, in the first place, have the Corresponding Society to do with the language of this letter; and how, in common decency or common sense, can it affect them? Is it to be endured

that treason shall be fastened upon me, because I am absurdly or impertinently asked whether my intentions be traitorous: unless my previous conduct or declarations have excited a reasonable suspicion, or unless the evidence of bad intention can be collected from MY ANSWER? If my *answer*, indeed, furnishes conclusion against me, that is quite another thing. Let us, therefore, examine *that*; for the QUESTION is no evidence at all but as it is introductory of the reply: yet, would you believe it?—the *answer* is not even printed, that I can find, in the reports; it is wholly suppressed; and is only introduced, by the candour of the crown, in the conduct of the prosecution. The answer, which bears date the 26th of November 1792, begins, as was natural, with recapitulating the questions put to them, nearly in the language of the letter itself; and then they say—"And as to the object we have in view, we refer you to our addresses; you will therein see we mean to disseminate political knowledge, and thereby engage the judicious part of the nation to demand a *restoration* of their rights in ANNUAL PARLIAMENTS; the members of those parliaments OWING *their election to the unbought, and even unbiassed, suffrage of every citizen in possession of his reason, and not incapacitated by crimes.*"—This is the answer of the Corresponding Society. And having set myself to rights with my learned friends at the bar, but meaning to extend my courtesy no farther, because justice confines it to *them*, surely I have a right to ask whether it be consistent with the dignity or character of a great and august tribunal to accuse persons capitally arrested, and before the season of their trial, of having shrunk from questions put to them for an exposition of their motives, *although they were possessed of the answer I have just read to you, which refers the questions positively and unambiguously to their original address*; which repeats the same legal objects, if possible, with additional precision; and which tells them, that from these objects *so a second time delineated and expressed, they mean neither to deviate to the right or left, but to pursue them by all means consistent with the law and constitution of the kingdom.*

The next observation, which is made upon the language of their proceedings, is still of the same complexion, and turns round directly in their support.

The charge, you observe, is for conspiring to hold a convention in England, in the year 1794, to usurp the government, and to depose and destroy the king; all the papers and letters which have been read, with earlier dates, having been only produced to convince you that the Convention was projected for that detestable purpose. To establish this from their own compositions, Mr. Solicitor General says (he will give me leave to remind him of his expression), "Look to the language in which they themselves speak of the proceeding in agitation—Let us agree to hold ANOTHER British Convention—What could this mean?" says my learned friend, *laying a strong emphasis upon the word* ANOTHER—"What could it possibly mean, but a resolution to hold *another* Convention *similar to that which had been held in North Britain*, consisting of delegates from the different societies, and which had been before dispersed by the authority of the law?" I TAKE HIM AT HIS WORD—IT COULD HAVE NO OTHER MEANING. They most unquestionably intended a convention, similar, in all respects, to the one at Edinburgh, which had been suddenly dissolved; and consequently, upon his own principles, to make out a case of treason against the prisoners who projected this ENGLISH Convention, he must show that the assembling the Convention at *Edinburgh* was an act of high treason in all who were engaged in it. To establish, upon his own principle of their designs being similar, that the English Convention was projected with the view of assuming and exercising all the functions of parliament, he is inevitably bound to show that the Convention at Edinburgh, of which it was a type, did actually assume and exercise them. Has he established either of these proofs?—Has he shown, by evidence, that the hundred and eighty persons who, as delegates from the different societies in Scotland, assembled at Edinburgh under the name of a convention, *did in fact* assemble to supersede the parliament of the kingdom, and were guilty of the crime of high treason?—Has he shown (which, to maintain his argument, he is bound to do) that all those, who sent them for that purpose, were implicated in the same guilt?—If he has, he has struck at the lives of thousands and ten thousands of his majesty's most affectionate subjects in North Britain, who were members of those societies. Has he proved distinctly that this Edinburgh Convention *did actually assume to itself all, or any, of the functions of government*, which he says would have been assumed here, by the meeting in agitation, had it not been nipped in the bud by the arrest of the prisoners, the seizure of their papers, and the institution of this solemn proceeding?

The solicitor-general having himself made this the question, as, indeed, he could not avoid it, let us examine what has been proved upon the subject. And in entering upon this duty, it really fills me with horror to think that the lives of men—what do I say—OF MEN!—that the lives of ENGLISHMEN should depend upon the successful resolution of such a chaos of matter as is spread before me, in which every faculty of the mind is bewildered and confounded;—that they should not only have *their own* writings to explain, and *their own* transactions to answer for, but that there should be heaped upon their heads every thing that has been said, written, or transacted, for years together, in every corner

of the kingdom, by persons with whom they not only never acted, but whose names or existences they never heard of. If the criminal law of England countenances such a proceeding, how is the subject to contend with any prosecution which the crown chooses to institute?—Where is the man capable of assisting him upon such a trial?—What purse is equal to the expense of witnesses?—and where is the tribunal equal, in body and in mind, to its decision?

In the first place, however, and before I proceed to explore the proceedings of the Edinburgh Convention, in the best way I can through the maze of materials before us, let me ask, as a preliminary question, *what the hon. gentleman, whom I represent, had to do with them?—Supposing all its transactions had been treason, how is he affected by them?*—It has been assumed that Mr. Tooke was an active promoter of the Scotch Convention, because his name stands entered in the books of the Constitutional Society as present when the sending of a delegate to Edinburgh was under deliberation. Good God! Gentlemen, how gross is this conclusion, and how pernicious is the principle which concludes it!—his entry would not be evidence in an action for ten pounds; yet what would not do upon such an occasion, or upon a charge for killing a hare or a partridge, is to be used as evidence to destroy the life of an English subject, and with it the law and constitution of the kingdom.—The society has been considered as a corporation;—its books have been laid upon the table as authoritative acts, binding upon all its members; and the pen of the secretary of a club is to conclude upon a fact which is to affect life.—The real truth is *(and it ought to be a solemn warning to Courts of Justice not to depart from the strict rules of evidence)* Mr. Tooke was NOT PRESENT when the proposition for sending a delegate to Edinburgh was made; neither did the proposition, when made, on that day receive the concurrence or approbation of the society, but, on the contrary, was objected to by the majority; not because they thought it criminal, but because they believed it to be useless. The farther discussion of the subject was, therefore, postponed from the 25th to the 28th of October, when a special extraordinary meeting was appointed, and Mr. John Williams, the mover of the proposition, was sent to Wimbledon to request Mr. Tooke to attend and support it; but it appears by Mr. Adams's evidence that he absolutely refused to come, and treated the proposal as frivolous and impertinent, insomuch that he was considered as a man bribed and pensioned to betray the cause of parliamentary reform, by withholding his support to a legal and well meant proposition in favour of the proceedings in Scotland. Yet this gentleman, greatly advanced in years, and declining in his health, who was shut up *at this time, and long before*, within the compass of his house and garden at Wimbledon, where he used to wish an act of parliament might confine him for life—who was painfully bestowing a greater portion of his time to the advancement of learning, than the rudest health could with safety bring to it—who was intensely devoted to researches which will hereafter astonish, and will not be soon forgotten by the world—who was, *at that very moment*, engaged in a work such as the labour of man never before undertook, nor perhaps his ingenuity ever accomplished—who had laid out near an hundred pounds only in packs of cards to elude by artifice and contrivance the frailty of memory and the shortness of life, otherwise insufficient for the magnitude of his pursuit—who never saw the Constitutional Society but in the courtesy of a few short moments, after dining with some of its most respectable members; and who *positively objected* to the very measure which is the whole foundation of the prosecution, is, nevertheless, gravely considered to be the master-string, which was continually pulling and directing all the inferior movements of a conspiracy as extensive as the island, the planner of a revolution in the government, and the active head of an armed rebellion against its authority. Gentlemen, is this a proposition to be submitted to the judgment of honest and enlightened men, upon a trial of life and death?—Why, there is nothing in the Arabian Nights Entertainments, or in the Tales of the Fairies, which is not dull matter of fact compared with it.—But the truth is, as it stands already upon Mr. Adams's evidence, that so little was the energy of the society upon the subject, that, at the general, adjourned, and *extraordinary* meeting, which was to decide upon this great question, which Mr. Tooke thought so small a one, but upon which the fate of Great Britain is considered here as having depended, only seven people gave their attendance; and although Mr. Yorke was chosen delegate to give countenance to the cause and to former resolutions, yet there were obstacles to the completion of his mission, because the *ways and means* could not be provided for his support.

It appears also, by Mr. Adams's evidence, that the Constitutional Society, which, for the purposes of this proceeding, has been represented as a sanguinary and widely extended conspiracy, consisted only of a few gentlemen, who wished well to the cause of constitutional reform, which they were too honest to abandon, but too insignificant in wealth, or numbers, efficaciously to support. In order, therefore, to prevent themselves from being laughed out of a very honourable purpose, and to prevent the honest and independent part of the public from giving up the cause of reform, form the despair of countenance and support, they published in their resolutions thousands of papers which they never printed, and expended large sums which they never had.—I might therefore, wholly decline all consideration of the Scotch Conven-

tion as impertinent and irrelevant, and if I were my own master I would do so; but the hon. gentleman who has a right to direct my conduct, with a generosity which must endear him to every body, even in this very moment, when he sees me preparing to measure my discourse by the exigency of his own particular defence, insists upon my meeting the solicitor-general upon the major proposition of his argument:—"I could maintain," says my Client, interrupting his own counsel in his own defence, "I could maintain that I am not criminal (you have already, indeed, amply maintained it); but *that is not enough*: when the lives of others, and the privileges of my country, are embarked in the controversy; I call upon you, therefore, Mr. Erskine, to maintain, *that there is no criminality*—I desire that the acts of others, through whose sides I am vainly sought to be wounded, in order that the reverberating stroke may pierce *them* the deeper, may be vindicated and explained."—In obedience to the task-master, then, let us see what this convention did:—

One of their first declarations, and which is preposterously relied on to prove their usurpation of the powers of government, is in these words—

"Resolved, That this convention, considering the calamitous consequences of any act of the legislature"—ACT OF THE LEGISLATURE!—Why, according to these gentlemen, they WERE THEMSELVES THE LEGISLATURE, for the legislature was gone, if their argument be founded, the moment the convention sat. "Resolved, That this convention, considering the calamitous consequences of any act of the legislature, which may tend to deprive the whole, or any part of the people, of their undoubted right to meet by themselves, or their delegates, to discuss any matter relative to their rights, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive OF THE KNOWN AND ACKNOWLEDGED CONSTITUTIONAL LIBERTIES OF ENGLISHMEN"——Gentlemen, I must pause here, though in the very middle of a sentence, because every limb and member of it furnishes a decisive refutation of the charge. Here are men accused of having assumed the supreme authority, and as the subverters of English law, who are yet peaceably claiming, *under the banners of the law*, the indisputable privileges of subjects to discuss the rights which *that law* bestows. They then say, and here, it seems, lies the treason—"We do therefore declare, before God and our country, that we shall pay no regard to any act which shall militate against THE CONSTITUTION OF OUR COUNTRY." But, according to the other side of the table, the constitution of the country was at an end, and all its powers assumed by this convention, although, in the very proceeding which they thus most unaccountably select for commentary, they bow obedience to all acts *consistent with the constitution*, and only refuse it to such as, in their minds, militated against the first principles of the English government, which they were determined to support, instead of being banded to overturn. But, in what manner, and to what extent, did they project a resistance to acts militating against their rights? Did they meditate, by force, the destruction of parliament which infringed them? Listen to the conclusion of this declaration, upon which so much has been said, and then tell me whether this body can, with common decency or justice, be charged as in a state of rebellion. "*We will continue to assemble to consider the best means by which we can accomplish a real representation of the people, and annual parliaments, until compelled to desist by superior force.*" What is this but saying, that they will, for an honest end, abide the penalties of an unjust law, rather than escape from them by its observance? Mr. Justice Blackstone truly says, that there is nothing even immoral in such disobedience—for that, if there were—prohibitory and penal regulations would be snares to the conscience of the subject. The fact is, there never had been a law in England, nor was there any then in existence, to prohibit the measures they were engaged in. An act which had just been passed in Ireland had, for the first time, declared such proceedings to be a misdemeanor, though without an act we are now treating them as high treason; and the introduction of a similar bill into the English parliament being the common report, they resolved not to sanction its unconstitutional principle, much less before the law existed, by a *voluntary* obedience, but to wait its regular enforcement by the magistrates.—This is not only the obvious meaning of the resolution itself, but it is established beyond a doubt, by their subsequent conduct, as it appears by the letter of Margarot, the delegate of the Corresponding Society, who, giving an account of their dispersion by the magistrates, as I shall presently read it to you, expresses himself to this effect—"If," says he, "we had desisted without the exertion of superior force, it would have been surrendering our rights, and the privileges of others; but, when called upon by superior force," *i. e.* by the authority of the magistrate, "the submission could not be considered as an acknowledgment of transgression on our parts."—The dissolution of this *parliament* (as it is gravely styled) is described, by Margarot's letter, to have been effected thus:—"Two messengers came again into our room with Gerrald; they left a summons to appear at ten o'clock: with Margarot they left nothing but a request to accompany Gerrald to the office; yet, when arrived there, he found that a warrant was issued against him for the purpose of detaining him a prisoner. On Thursday the whole convention were equally ill used; the provost went, and after pulling Matthew Campbell

Brown, of Sheffield, out of the chair, ordered the convention to disperse, and told them, he would allow no such meetings in future. The next day, the convention having agreed to meet at another place out of the jurisdiction of the provost, we had not long been assembled, before the sheriff appeared amongst us, and having asked whether the meeting was the British Convention, and being answered in the affirmative, ordered us to depart. He asked who was president—upon which Margarot, having openly asked and obtained leave from the convention, placed himself in the chair, and told the sheriff he would not break up the meeting, *unless unconstitutionally forced thereto, by the sheriff's pulling him out of the chair*; which the latter after some hesitation, complied with. The ex-president, Gerrald, was then put into the chair in order to be pulled out by the sheriff also, which being done, the meeting was then closed with prayer, and the company departed peaceably." Now, does the whole history of human folly furnish any thing so extravagantly absurd and ridiculous, as to consider this as the suppression of an extensive and armed rebellion, and as a sort of counter-revolution in Great Britain?

Upon the trial of a solemn and important cause, upon which not only the lives of innocent men are depending, but the existence of the laws themselves under which we live, I am afraid to run into observations which are ludicrous; but such is the preposterous nature of this whole business, that it is impossible to avoid it. In reading the minutes of this convention, as the regular proceedings of a parliament, holding at once the sword and purse of the kingdom, we have frequently encountered with matter which, whether we would or no, has convulsed us with laughter in the midst of the awful duty we are engaged in. In the minutes of the fifth day, the 21st of November 1793, we find the deputy secretary informing the convention that he had last night received fifteen shillings from six visitors, which was ordered to be paid to Mr. Skirving, with three shillings more already collected; and, on the day following we have Mr. Margarot moving (I suppose in the committee of Ways and Means), that a general collection should be made, which being consented to, and Mr. Callendar and Mr. Scott being appointed collectors, these gentlemen made their report *instanter*:

	£.	s.	d.
That there had been drawn -	4	5	8
But of which there being *two bad shillings* the balance was -	4	3	8

To which a person of the name of Moore added a shilling. Yet this assembly of poor unarmed people, collecting sixpences to pay for their room and their advertisements, who were dispersed by a common justice of the peace, with less bustle than a watchman puts an end to a brawling in the corner of a street every night throughout the year, are now considered as having intended to assume to themselves, and indeed, for a season, to have exercised all the functions of this great country, protected as it is by a vast standing army, by a national militia, consisting of all the gentlemen of England whose landed interests depend upon the stability of the government, and by the great body of opulent merchants and monied men, whose fortunes are vested in the public funds, and thereby their possessions and the hopes of their families entwined within the very bowels of the state.

There is another point of view, from whence if we examine this proceeding, it must appear, if possible, still more extraordinary. I admit that, in consequence of the dispersion which they considered to be illegal, a great many inflammatory papers were written; and that it was thought adviseable, upon the whole, to subject the principal persons engaged in this convention, to a legal prosecution. But how were they prosecuted? and by that very government which has instituted the present proceedings? Were they prosecuted for high treason?—No—Was the charge of treason ever thought of, or connected with their names?—I ANSWER NEVER.—Although they were not met together, like Mr. Hardy and the other unfortunate prisoners, to consider how they *should in future* hold a convention, but were taken, flagrante delicto, *in the very act of holding one*, and of holding precisely such a one as the prisoners are charged with having only projected; THEY WERE ONLY ACCUSED OF A MISDEMEANOR. I repeat the expresssion, they were only prosecuted for a misdemeanor, *although taken in the act of holding precisely such a convention as the prisoners only projected.* For I again refer to the solicitor-general, whether he did not *twice* assert, and his learned coadjutor *more than twice*, that the conspiracy charged upon the record was to hold a convention *similar to that which had been held and put down in Scotland.*

I assert also that government had the same materials in its hands for conviction which it has at this hour—they had spies in every corner.

——"There was not a man
"But in his house they had a servant fee'd."

And the minutes of the convention, which have been read at your table as evidence of high treason, were seized by the provost and sheriff of Edinburgh, in 1793, and read as evidence against Margarot and Gerrald, when prosecuted *only for libels* in the Justiciary Court.

What shall we say then of a government which lays a snare for innocent blood, by giving to an act the character of a misdemeanor, waiting for future victims when it should be exalted to the denomination of rebellion and treason. Gentlemen, I make no such charge upon government—I acquit them.

of all schemes upon the subject, good or evil —I believe that the fit of alarm came very suddenly, and very lately upon them; and that they do not know, even now, upon what principle they are here, or what they have to hope from their proceedings.

The magistrates of Edinburgh having brought the leaders of the convention before the court of justiciary, they were convicted of misdemeanors; but these judgments, instead of producing the effect that was expected from them, produced (as ever happens from perverted authority) great irritation and discontent. They were, in my mind, and in what is far more important, in some of the greatest minds in this country, ILLEGAL PROCEEDINGS. And although I do not mean, in this place, to make any attack upon magistrates in the execution of their duty—

Lord Chief Justice *Eyre.*—It should not be stated here that they were illegal

Mr. *Erskine.*—I did not say they were illegal—I said, *that* IN MY OPINION *they were so, and that they were questioned in parliament as such.* It is not my purpose to give offence to his lordship, who has given us an indulgent and attentive hearing through the whole course of this cause; but it is material to state, because it accounts for some of the writings in evidence, that the opinion and conduct of the Scotch judges *were questionable;* that they were actually questioned in parliament (AS THEY MAY YET HEREAFTER BE QUESTIONED); and were pronounced by the greatest men in both Houses of Parliament, to have been harsh, unconstitutional, and illegal. Smarting, therefore, under the lash of these sentences, which they considered to be unjust, and believing that their colleagues had done nothing more than the law authorized, and their consciences suggested, they came to an intemperate resolution concerning the Scotch judges, which, though so strongly relied on, can certainly have no sort of application to the cause, since if they had knocked on the head the lord justice clerk and all his brethren, while presiding in their court, instead of contenting themselves with libelling them, it would not have been high treason within the statute of Edward the third. This mighty bug-bear of a resolution is in these words.—I am not afraid to meet it:

"Resolved, That law ceases to be an object of obedience whenever it becomes an instrument of oppression."

This is a mere abstract proposition, to which I would subscribe my own name at any time.

"Resolved, That we call to mind, with the deepest satisfaction, the fate of the infamous Jefferies, once lord chief justice of England, who, at the era of the glorious Revolution, for the many iniquitous sentences he had passed, was torn to pieces by a brave and injured people.

"Resolved, That those who imitate his example deserve his fate."

Gentlemen, if the application of this maxim was meant to be made to the recent proceedings of the Scotch judges, it may be a libel upon *their* persons and authority for any thing I know or *care.* I see nothing that is either criminal or indecent. In my mind, on the contrary, the promulgation of such awful and useful reflections should not be left to the irregular, and often misapplied promulgation of private men, but should be promulgated at solemn festivals by the authority of the state itself. There ought, in my opinion, to be public anniversaries of the detestable, as well as of the illustrious actions of mankind, in order that, by the influence of negative, as well as of positive example, the greatest possible hold may be taken of the grand ruling passion of our nature, and the surest indication of its immortality—the passion of living in the minds of others beyond the period of our frail and transitory existence—By such an institution, public men would every moment be impelled forward in the path of their duty by the prospective immortal rewards of an approving posterity; and, what is still more important, and far more applicable to my present purpose, wicked men, clothed with human authority over their fellow-creatures, would be deterred by the same means from the abuse of them; because, in the very moment when they were about to barter away the life of innocence, or the public justice of their country, for some miserable advance of ambition in the decline of a transitory life, they might, perhaps, start back from the temptation, appalled by the awful view of future ages rising up before the imagination, sitting in judgment upon their characters, and proclaiming them with indignation to the universe.

But how, after all, do these resolutions (whatever praise or blame may belong to them) apply to the matter in hand? For Mr. Tooke positively refused to sanction them. Though chairman of the meeting, he would not remain in the chair when they were passed; and I will call, if you think it material, the very person who took his place while they were passing. Yet, nevertheless, they are brought forward against him, and insisted upon with the same arguments as if he had been their author. Gentlemen, this is intolerable.—The whole history of human injustice can produce nothing like it.—*The principle seems to be, that all the libels written by any man in the world who at any time has supported a reform in parliament, whatever may be the subject of them, and however clashing with one another in design or opinion, may be drawn into the vortex, and pointed to convict of high treason Mr. John Horne Tooke.* By reading these contradictory performances as the evidence of his designs, they make him one day a reformer of the House of Commons,—the next a rank republican,—the third well affected to our mixed constitution,—and the fourth relapsing into a republican again.—In

this manner, by reading just what they please, and insisting upon their own construction of what they read, the honourable gentleman is made to oscillate like a pendulum, from side to side, in the vibrations of opinion, without pursuing any fixed or rational course; although I will show you that, of all men in the world, he has been the most uniform, firm, and inflexible in his political course.

The next paper which they read is hardly, I think, at all connected with the important subject of the trial, being a mere squib upon the present just and necessary war. It is a resolution of the Constitutional Society of the 24th of January, to which Mr. Tooke was privy, in which it was resolved—"That an excellent address of the Corresponding Society should be inserted in their books. And that the king's speech to his parliament be inserted under it, in order that they may both be always ready for the perpetual reference of the members of this society during the continuance of the present unfortunate war—and that, *in perpetuam rei memoriam*, they may be printed in one sheet at the happy conclusion of it, which happy conclusion according to the present prosperous appearances, we hope and believe not to be many months distant."

Gentlemen, surely it is not treason to believe that which ministers are daily holding forth—surely it is not treason to expect and believe upon the authority of parliament that the war we are engaged in will soon be brought to a prosperous issue. Would the people of this country have been so composed in a conjuncture, which for calamity has no parallel in the history of Great Britain, but for these constant declarations of the king's ministers, which Mr. Tooke is only accused of having believed? Were we not told *(I am not entering upon political controversy, but defending my client)*—But were we not told daily, that the war would be brought to a speedy and happy termination? And can it be criminal in a subject to give faith to the acts and declarations of government? But supposing it, on the other hand, to be only irony upon administration, and a ridicule of their proceedings, which may perhaps be the best construction:—is a man's life to depend in this country upon his admiration or support of any particular set of ministers? I care not a straw what you, the jury, who are to decide upon my client's conduct, may think upon these topics, or upon the ministers of the day;—I rely upon your judgments as honest men, impressed with a sense of religion, who know the sanctity of the oath you have taken, and the duty which it imposes, and I only introduce these subjects, not because I think them relevant, but because they have been thought so by the crown, who read these papers to condemn us.

But it is the *conclusion* of this resolution, I believe, which gives the offence, where, upon motion, the words "faithful and honourable," which stood applied to the parliament, were expunged, and the words "his, and his only," inserted in their stead.—What then?—This is no denial of the fidelity of the king to his parliament, but is an insinuation, on the contrary, that the parliament was unfaithful to the king. If it can be considered, therefore, in the serious light of a libel upon *any* authority, it is a defamation of *the House of Commons*. But we are not brought here to answer for a libel upon that assembly; we are accused of a conspiracy to cut off the king—and in order to prove it, they give in evidence an idle squib against the House of Commons, for not faithfully serving him; so that if the paper were deserving of any consideration one way or the other, it makes quite against the purpose for which it is used—unless it is meant to be contended, that the king and the House of Commons are one and the same thing.

Another matter equally irrelevant has been also introduced, very fortunately, however, for the honourable gentleman at your bar, because it affords a signal instance of his generosity and nobleness of mind. I speak of his letter promoting a subscription for Mr. Sinclair, who had been convicted in Scotland for acting as a delegate at the convention.

Although Mr. Tooke not only never sent him as delegate, but strenuously objected to his delegation;—though he *so* uniformly opposed the whole measure which led to his conviction and punishment, as to lead to the question of his own sincerity in the minds of some who supported it;—although the consequence of the sentence could not have pulled a hair out of his head, but led, on the contrary, to confirm the prudence and propriety of his conduct;—yet in the hour of Mr. Sinclair's distress, he was the first man to step forward to support him, and to take upon himself the public odium of protecting him, though he had privately discountenanced every act which could give the sufferer any claim to his countenance or support. I am perfectly sure that my worthy friend the attorney-general is too honourable a man to make a single observation on this genuine act of disinterested benevolence.—But I am not the less obliged to Mr. Gibbs for not suffering me to omit in its place, a matter which redounds so highly to the honour of the gentleman we are defending.

It is the same spirit that dictated the other part of the letter which regards Mr. Pitt. Filled with indignation that an innocent man should be devoted to a prison for treading in the very steps which had conducted that minister to his present situation, he says (I have mislaid the letter, but can nearly remember the expression), "That if ever that man should be brought to his trial for *his* desertion of the cause of parliamentary reform, for which Mr. Sinclair was to suffer, he hoped the country would not consent to send *him* to Botany Bay."

Gentlemen, I have but one remark to make upon this part of the letter: Mr. Tooke is not indicted for compassing and imagining the death of Mr. Pitt.

Gentlemen, we come at last to the very point of the charge, viz. the conspiracy to hold the convention in England, and the means employed for that purpose;—and it is a most striking circumstance, a circumstance in my mind absolutely conclusive of the present trial (unless you mean to reverse the former verdict, which none of you will, and which *all of you* certainly cannot), that Mr. Hardy, who has already been acquitted, was the very *first* and *single* mover of the proposition to hold this convention—and that all the subsequent steps taken in the accomplishment of it, down to the day when the prisoners were sent to the Tower, were taken *not only with his privity, but through his direct agency*; and that every letter and paper which has been read upon the subject, bears the signature of his name, many of them being also of his own composition. If the convention, therefore, was originated for the detestable purpose charged by this indictment, Mr. Hardy, who has been acquitted, was the original and the principal traitor; whatever was known, HE certainly knew; whatever was done upon it, HE not only did, but actually led the way to the doing of by *others*.—If there was a conspiracy, HE was manifestly the principal conspirator.

This is no assertion or argument of mine—it was avowed by the crown which now prosecutes Mr. Tooke—and Mr. Hardy was therefore *first*, and most properly, selected for trial; because the object of the one we are now engaged in, and of every other that can succeed to it, are only to apply by *remote* implication and *collateral* circumstances, the very acts which were *directly* brought home to Mr. Hardy, who stands acquitted by his country, nay, which were without controversy admitted by his counsel. The Court said, in summing up the evidence in the former trial, that it had been but feebly argued that Mr. Hardy was not implicated in a great part of the evidence.

Gentlemen, this was but a cautious and indulgent mode of statement by the Court, lest admissions might be supposed to have been made by us which counsel ought not to make; for certainly we neither did, nor could attempt to deny that Mr. Hardy was cognisant of, and active in every transaction which regarded the British Convention, the very treason charged upon the record. The attorney-general, therefore, is reduced to this dilemma, either to contest the justice of the former verdict which acquitted Hardy, or to surrender the present prosecution. That this is the true position of the cause will appear incontestably from the proofs.

The origin of the convention appears to have been this:—Mr. Hardy, who has already been acquitted by his country, having received a letter, which has been read to you, from a country correspondent, stating that as the Edinburgh Convention had been improperly and illegally dispersed, it would be proper to hold another; he laid the proposal before the Corresponding Society, who adopted it upon the 27th of March 1794, and transmitted a copy of their resolution upon the subject to the Constitutional Society for their approbation. Mr. Hardy, therefore, was not merely active as secretary in the progress of the convention, but was *in his own person*, the first mover and proposer of it; and it is impossible that the jury could have honourably acquitted him upon any other principle than their total and absolute disbelief that the measure was pursued for the detestable purposes imputed by this indictment.

Gentlemen, the best way to support that judgment, and to bring you to the same conclusion, is to examine the proceedings, and to let them speak for themselves.

The Corresponding Society, upon Mr. Hardy's proposition, having on the 27th of March 1794, adopted a resolution which they transmitted to the Constitutional Society for approbation, that society met the next day, the 28th of March to consider it; the resolution was sent in the form of a letter from Mr. Hardy himself, in these words:

"I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require. The London Corresponding Society conceives that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom, whether the late ILLEGAL and unheard-of prosecutions and sentences shall determine us to abandon OUR CAUSE."

To pause here a little—Does not this incontestably show that their CAUSE (with whatever irregularity it might have been pursued) was no other than the cause of parliamentary reform;—is it not demonstration that they considered the persons convicted in Scotland as wrongfully convicted?—It is not in human nature,—it is beyond the flight of human impudence or folly, that men under a government of law should publicly declaim against prosecutions as illegal, tyrannical, and unheard-of, if they had either themselves considered them, or if they had been held by others to have been the regular proceedings against traitors arrested in rebellion against their country. Construing, therefore, this part of the letter as common charity and common sense must concur in the construction, and as the former jury construed it; it is no more than this—They say to the Constitutional Society, "As we are in the progress of an honest cause—as we are pursuing a legal purpose by legal means, which others have adopted before us; shall we abandon it,

terrified by the unrighteous judgments of another country? or shall we unite and persevere in its support, confiding that whatever may be the condition of *Scotland*, there is no law here in ENGLAND which can condemn us, nor any judges who can be interested in its perversion? Let us concur, therefore, in the necessity of another convention, as the only legal and constitutional means of redressing the grievances which oppress us, and which can only be effectually redressed by a full and free representation of the people of Great Britain."

The crime, therefore, imputed to the Constitutional Society is only this,—that, addressed in this manner by the Corrresponding Society *so describing its objects*, it assented to the appointment of a committee of their society, to meet a committee appointed by the other, to consider of the proper steps to be taken for the accomplishment of the object so described.

This is the whole that can be charged upon this society; for there is no evidence whatever, even of any of its members being acquainted with the design of considering of a Convention, until it came to them in the shape of a letter from Mr. Hardy, who has been acquitted: all the antecedent part being ABSOLUTELY AND ENTIRELY HIS OWN. This proposition, indeed, was so far from coming to the Constitutional Society as the members of a secret conspiracy, that it was made in the most public manner to other societies, with whom they notoriously were not connected; it was made to the Society of the Friends of the People, of which I have the honour to be a member, whose principles and conduct have been spoken of with respect throughout these proceedings. When we received their proposal we were as well acquainted with all the antecedent proceedings of the societies, as the evidence makes us acquainted with them now; and we still flatter ourselves that we were as capable of understanding the meaning of what was addressed to ourselves, as those who since then have assumed to themselves the office of decipherers; yet, with all this knowledge, we returned an affectionate answer to these BLOODY CONSPIRATORS;—we wrote to them, that we heartily concurred with them in the objects they had in view, but differed from them in the expediency and prudence of the means by which they had proposed to give them effect—WE, therefore, understood their object in the same light with the Constitutional Society, viz. the reform in the House of Commons only; and the difference between us is reduced to a difference in judgment, as to the *means* for producing an end which in common was approved.

Gentlemen, the Constitutional Society having agreed, as I have just now stated to you, to appoint some of their members to confer with others appointed by the Corresponding Society, upon the subject of the resolution of the 27th of March, understood by them as I have explained it to you, we are brought by the evidence to the consideration of that overt act upon the record which charges these committees so appointed with the crime of high treason in these words—"That with force and arms they did traitorously consent and agree, that Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, John Lovett, William Sharpe, and one John Pearson, should confer and meet, and co-operate together, for and towards the calling and assembling such convention for the traitorous purposes aforesaid:" *i. e.* as it is agreed on all hands, for subverting the government, and deposing and destroying the king. Here another dilemma inevitably encloses the crown; because this charge of conferring together towards the calling a convention which was to be held for these traitorous purposes, cannot possibly be urged against these eleven persons appointed to confer together concerning it, unless the major proposition can first be established, that such a traitorous convention was originally in the contemplation of those who appointed them. For these *eleven* persons are not charged as having *originated* the convention, but each prisoner in his turn is charged with having *consented and agreed* that these persons should confer together upon the means to give effect to a treason *already* hatched and contemplated, which inevitably throws them back upon Mr. Hardy, who has been acquitted; for how, in the name of common sense, can their guilt be consistent with his innocence? I say, this is a dilemma, because there is no road out of this absurdity but by running into another: since to confine the guilt to the prisoners who co-operated together in exclusion of those who appointed them to do so; it must be assumed that they were, *bonâ fide*, appointed to confer towards calling a meeting, which had for its real and honest object, a reform in parliament: but that they were no sooner appointed, than, without the consent of those who had deputed them, they confederated to change the purpose of the deputation, and conspired among their eleven selves to form a parliament for ruling by force of arms over this mighty kingdom.

Now, I appeal to you, gentlemen, whether there ever was a proposition so utterly out of the whole course of human affairs, as that six men of one very numerous society, and five out of another equally numerous, unanimously appointed to confer upon any given object, no matter what, should be taken without a shadow of evidence, to have in an instant departed from the trust reposed in them, and to have set on foot a secret plan which they durst not communicate even to their principals and co conspirators, and which, with or without communication, was wholly visionary and impracticable.

Gentlemen, I know that my learned friends are incapable of publicly maintaining so pre-

posterous a proposition; I admit that they never did maintain it, and I only state it to give to them the choice of the alternative; because either these eleven persons are only guilty from having changed the purpose of a deputation originally not traitorous, a thing admitted to be absurd and irrational, or else *all* who deputed them were traitors also; the conclusion is inevitable; because it is impossible to say that the societies who deputed them did not know their own motives and their own objects; and the supposition is farther absolutely excluded by the evidence; as the committees so appointed were to do nothing of themselves, but were to report to the society at large the result of their deliberations: and reports from them were accordingly actually read at the society, in the presence of many respectable members now at large, and whose names have not been even mentioned as suspected in the course of these proceedings.

It is, therefore, impossible to impute guilt to the prisoners selected for punishment, without extending it to a compass to which no man will be hardy enough to say, it shall or can be extended: how many persons upon such a scale would be principals in treason, or guilty of a misprision of it? *Every man who attended the various societies throughout the kingdom, or who knew, by belonging to them, that a convention was on foot.* To say nothing of the extravagance of such a wide imputation of disloyalty and rebellion, what can be more dangerous impolicy than to invite foreign nations to believe, whilst attempts are making from abroad to destroy our constitution, that the people of England are already ripe for a revolt?

But there are inconsistencies, if possible, still more glaring to be encountered with in maintaining the charge against the prisoners selected for trial, than even in this wide extension of it to others; for if any of the few persons *(being only twelve in number)* be guilty of this treason, they must ALL be guilty; it is quite in vain to think of distinguishing or separating them; yet *some* of them are not even accused, and *others* are judicially separated from accusation.—Mr. Sharpe, the engraver, though one of the committee, was examined for the crown, but not examined as an accomplice: and the bill was thrown out by the grand jury against Mr. Lovett, another of them, whom I am, therefore, entitled to consider as an innocent man who ought not even to have been accused, and who will tell you upon his oath (for I shall call him as a witness) that there was not a syllable passed at these meetings, which the king upon his throne might not have heard; that neither his name nor office were mentioned with irreverence; and Lovett, speaking for himself, and for his own motives, will farther solemnly tell you, that in his honest conscience he believed, that from the consequences of a timely reform in the House of Commons, *to which all their deliberations were singly directed*, the king's title would be more firm,—his person more secure,—his crown more illustrious,—and its inheritance in his line more certain,—than by seeking their support from the continuation of abuses which had so recently overturned a throne, that, propped as it was by armies, and the bigotry of the people, seemed destined to endure for many generations, but which, nevertheless, undermined by its own corruptions, suddenly crumbled into dust, and shook, or more properly shakes at this moment, the whole habitable world with its fall.

That Mr. Richter, another of the committee, and now in Newgate, meant nothing more than the reform in the House of Commons, I will prove to you by Mr. Rous, one of the most respectable men in our profession, and whose honour and veracity are above all question. He will tell you, that he saw him after the Friends of the People had refused to concur in sending delegates to the proposed convention, when Richter assured him, that in the plan they had adopted they had acted for the best, but that they were desirous to act cordially with the Friends of the People in whatever they thought the most conducive to promote the constitutional object they were engaged in. I believe, indeed, that the mass of these societies thought with many others, of which class I profess myself to be one, though I differ with them in the means, that nothing can so certainly tend to support the throne as a reform in the Commons House of parliament.—Whether you think with them or with me on this subject is of no consequence—it is enough if you believe that *they thought so, and honestly acted upon their opinions;* opinions which at all events were entertained and acted upon by many illustrious persons now present, some of whom I will call as the willing, and others as the unwilling witnesses to the fact.

But as the quality of their acts is best to be ascertained by the acts themselves, let us examine what the committees did, and what was done by the societies who supported them.

On the 11th of April they made their report in these words:

"Resolved, That it appears to this committee very desirable that a general meeting or convention of the friends of liberty should be called."—For what?—to depose the king?—to subvert the government?—NO. But, in the concluding words of the resolution, "For the purpose of taking into consideration *the proper means of obtaining a full and fair representation of the people in parliament.*" This resolution, *after some objection to the word convention*, was adopted. Now, I desire distinctly to know why this resolution is to be perverted from its ordinary meaning any more than many similar resolutions in other times? The lord chief justice in the former trial said, in so many words, that it must be conceded

to these societies, and to the prisoner Hardy, *that they set out originally upon the duke of Richmond's plan.*—If this be so, it is for the crown to establish *at what period, and by whom,* this system was abandoned, and what is the evidence of the abandonment.—Does the attorney-general mean to say that it is high treason for a number of persons collected together to make a delegation to a smaller number from among themselves for any purposes, legal, or illegal? He will certainly not say that.—So that, in whatever view the matter for deliberation is examined, the question still returns, and must for ever return to its only legal centre, viz. THE OBJECT THEY HAD IN VIEW in this delegation; and that examination cannot rationally take place but either by looking at the acts themselves, and judging of them *as they present themselves to view,* or else by showing, from *extrinsic* evidence, that they are *not* what they appear upon the surface, but are directed to concealed and wicked objects.

With regard to the first, it has been conceded from the beginning, even by the court (as I have just observed) in its charge to the grand jury, that their AVOWED object was a constitutional reform; and as to the last, I call aloud upon those who ask you to pronounce, that a forcible subversion of the government was intended, to confess that the very idea of such a charge was disavowed and reprobated even by the very witnesses they brought forward to establish it. Upon the first trial they called a great number, who, without a single exception, one after another, positively swore that hostility to the government, or an attack upon it by force, never entered into their contemplation; and Mr. Gibbs, as I am informed, in my absence to-day, established the same truth by cross-examination of the Sheffield witnesses, who, with one assent, as I see from a note now before me, all declared they had been insulted and abused, which was the origin of the few pikes manufactured for their defence; and the attorney-general appears to have been so well satisfied, that the whole evidence concerning arms was "a beggarly account of empty boxes," unfit for a second introduction in so momentous a cause, that he gave up the whole of it, and we have heard not a syllable of that which assumed so grave an aspect when Hardy lately stood in judgment before you; nor has even Franklow himself, and the Loyal Lambeth Association, made their appearance.—In my opinion it was sound discretion to abandon that parol evidence. To have called people who literally knew nothing of the societies, would have been to expose weakness; to have again called honest witnesses, who knew any thing, would have been to prove too much, because the falsehood of the imputation would again have been manifested; and to have attempted it a second time by spies and informers, would only have been uselessly bringing up their raggamuffins to be peppered: a conduct which sinks a cause in the opinion even of Jefferies himself, who, when serjeant Jefferies, upon the trial of lord Russell, said to the jury—"*Remember we bring no ignominious persons here; we have not raked the gaols for evidence; we have brought before you no scandalous* SPIES AND INFORMERS, *but men worthy of credit.*"

To say the truth, gentlemen, their parol testimony being thus subtracted, there has been brought forward in this cause no evidence either creditable or scandalous; for, with the exception of a few papers not worth a farthing, I will undertake to collect from the coffee-houses of London a complete facsimile of the Report of both Houses of parliament, which has consumed so many days in reading, and for no part of which, as I have noticed formerly, any author, printer, or publisher, has been ever called to account.

We have now reached the finale of the business—the great catastrophe—and it is awful to examine upon what small pivots the fate of nations depends, and to contemplate the miraculous escape of our country.—The two committees agreed to meet on Mondays and Thursdays in Beaufort Buildings, and no time was to be lost; for Hessians and Hanoverians were upon them.

When the 14th of April came, which should have been their first meeting, there was no meeting at all, but a great multitude of people, of different descriptions, assembled at Chalk-Farm.—My learned friends, I see, are taking notes on this subject; but let them recollect, that Lovett, whose case has been before the accusing jury, and who stands wholly discharged from guilt or suspicion, was chairman of this meeting, and, at the same time, a member of the committees of conference and co-operation; yet now when the leader himself is exculpated, and not exposed even to the hazard and inconvenience of a trial, he is to be hung to-day round the neck of the gentleman at your bar, who never was at Chalk-Farm in his life;—who never heard of the meeting, nor of the existence of the place at which it was held, till he read it in the newspapers, as we all did, and who never saw Mr. Lovett till he met him in the Tower, when he was pointed out to him as one of the persons with whom he had long been engaged in a conspiracy. Thank God these experiments are not only harmless, but useful:—they serve as a clue when the contrivance is more plausible.

The next Thursday after the meeting at Chalk Farm was the 17th of April. Now attend to the proceedings of these conspirators, pressed to a moment in point of time, and whose schemes were ripe for execution. Not one of them came.—The 24th of April was the third Thursday, when the committee from the Corresponding Society attended, but, not being met by the other, there was of course, no conference. On the 28th of April, full three weeks after their original appointment,

they at last assembled; and, after having conferred concerning the news of the day, and co-operated in taking snuff out of one another's boxes, they retired to their homes without uttering a syllable concerning the king or his parliament. These important transactions were repeated on the 5th of May; and on Monday, May the 12th, although no *other* meeting had then been held, and though these proceedings, as I have stated them to you, had been fully linvestigated before the privy council: though the societies were constituted for purposes perfectly notorious, and long unopposed; though all their meetings had been publicly advertised, and their correspondence as open as the day, Mr. Hardy was suddenly arrested—dragged out of his bed in the night—torn from the arms of an affectionate wife, who fell a sacrifice to terror and affright, although he can *now* tell you, upon an oath accredited by his full and honourable acquittal, that he had not a conception in his mind, even after he was in the custody of the law, that high treason, or any other crime which verged towards disloyalty or rebellion, was to be imputed to him.

Gentlemen, the alarm which seized upon government at this period seems to have invested the most frivolous circumstances with mystery and design against the state, of which we have had a notable instance, in a letter written by Mr. Joyce to Mr. Tooke, on the day Hardy was arrested, which, being intercepted, was packed up into the green box there, and reserved as evidence of a plot. The letter runs thus—"Hardy and Adams were taken up this morning by a king's messenger, and all their books and papers seized;" and then, following a long dash, "CAN YOU BE READY BY THURSDAY?"—This letter, gentlemen is another lesson of caution against vague suspicions; the red book was not a list of persons to be saved, in opposition to the black book, of those to be sacrificed; but Mr. Tooke having undertaken to collect, from the Court Calendar, a list of the titles, offices and pensions bestowed BY MR. PITT UPON MR. PITT, HIS RELATIONS, FRIENDS, AND DEPENDENTS, and being too correct to come out with a work, of that magnitude and extent, upon a short notice, had fixed no time for it, which induced Mr. Joyce, who was impatient for its publication, to ask if he could be ready with it by Thursday. Another curious circumstance, of similar importance, occurred about the same time, which I marvel has not appeared in evidence before you. I will tell you the story, which is so stamped with the wit which distinguishes my client, that it will speak for itself without proof. A spy came one night into the society to see what he could collect, when there happened to be present a Mr. Gay, a man of large fortune, and a great traveller (the gentleman I speak of is a member of the Friends of the People, introduced by my friend Mr. Tierney, now in my eye). This Mr. Gay, in the course of his travels, had found a stone inscribed by Mr. Stuart, another great traveller, as the end of the world; but resolving to push on farther, and to show his contempt of the bounded views of former discoveries, wrote upon it, "This is the *beginning* of the world—treating it as the ground from which he meant to start upon his tour. The plan being introduced for consideration while Mr. Gay was present, Mr. Tooke said, "Look ye, gentlemen, there is a person in the room disposed to go to GREATER LENGTHS than any of us would choose to follow him." This allusion to the intrepid traveller was picked up by the spy as evidence of the plot; and if I had the rummaging of the green boxes, I would undertake to find the information among the papers.

Gentlemen, in tracing, as I have done, the proceedings of the societies towards holding this convention, I have continued to follow the instructions of my client, in totally losing sight of *his* defence, in order to keep danger at a distance from *others;* for I have now only to remind you, since the fact has appeared already, that the prisoner took no share whatsoever in any of these proceedings.—He considered them, indeed, to be legal, but, in his enlightened judgment, not convenient, nor likely to be attended with advantage to the object; and therefore, when the resolution of appointing a committee was adopted, and his name was proposed as a member, he objected to it, declared he would not attend, nor have any thing whatever to do with it. You may ask, perhaps, why, after that refusal, he suffered his name to stand upon the committee?—and why he did not withdraw himself wholly from the society?—In answer to that, he has told you much better than I can, as he can, indeed, tell you any thing much better, that as he considered the proposition not to be criminal or illegal, he did not feel himself at liberty to abandon a laudable pursuit by breaking up or dividing the society, for mere difference of opinion with respect to the mode of obtaining it. This conduct was manly and honourable, and it by no means stands upon Mr. Tooke's assertion: the fact and a most important one it is, rests upon evidence, and not upon *our* evidence (for our season of giving it is not yet arrived), but upon the evidence *relied on by the Crown for the establishment of guilt;* and which, therefore, must be wholly adopted, or wholly rejected.

It will appear farther, and more distinctly, that Mr. Tooke persisted in his resolution;—that he was a total stranger to their proceedings; that the committee of correspondence, of which he objected to be a member, never met; and that the only reason why his name stands as a member of the committee of correspondence, to which he not only did not assent, but the formation of which he never knew, was, that it was resolved, in his absence, that the committee which had before been appointed to *confer*, should also be a committee to *co-operate*; and of so little ac-

count was this same committee, that Mr. Adams, when examined for the crown (though secretary of the society), declared, upon his oath, that he never had heard of it until he read it out of the book, as a witness in the court.

It is evident, therefore, that the great substantive leading overt act in the indictment, *viz.* the conspiracy to hold a convention to subvert the government, to which all the other charges are undoubtedly subservient, is not only not brought home to the hon. gentleman at the bar, but appears to be without foundation altogether; and it is equally evident, by the conduct of the crown, that *they* think so; for, if they had proved their charge by the evidence of the facts which belonged to it, their task was finished; and all matter, collateral or foreign, would not only have been irrelevant, but injurious to the prosecution; but, conscious that the traitorous intention could neither be legally nor rationally collected from any one fact appertaining to the subject in agitation, they have heaped matter upon matter on his head from various quarters, totally disconnected with the charge, and with one another, in order that these transactions, though singly neither treason, nor any other crime, might, when tacked together, amount to whatever might be found necessary to destroy him. In this manner that unfortunate statesman, lord Strafford,* was sacrificed; but the shameful violation of the law of England, which alone could have supported his condemnation, has ever been spoken of with detestation by every lawyer, of whatever party, who has lived since his trial; and, what is the next evidence of its turpitude and illegality, has been considered as a blot in the page of English history, by historians of all parties and opinions. Mr. David Hume, a man not to be named as a compiler of mere facts, but as a profound politician and philosopher, speaks of it in the manner which I will read to you, notwithstanding his leaning to high and arbitrary principles of government. In his sixth volume, page 451, speaking of lord Strafford's attainder, he says, "As this species of treason, *discovered* by the Commons" (the Commons have also the merit of discovering this), "is entirely new and unknown to the laws; so is the species of proof by which they pretend to fix that guilt upon the prisoner. They have invented a kind of *accumulative* or *constructive* evidence, by which many actions, either totally innocent in themselves, or criminal in a much inferior degree, shall, *when united*, amount to treason, and subject the person to the highest penalties inflicted by the law.—A hasty and unguarded word, a rash and passionate action, assisted by the malevolent fancy of the accuser, and tortured by doubtful constructions, is transmuted into the deepest guilt; and the lives and fortunes of the whole nation, *no longer protected by justice, are subjected to arbitrary will and pleasure.*"

Gentlemen, it may be said that the shameful case I have cited is not like the present. Certainly it is not—for the unguarded words which the historian reprobates the enhancing into treason, were the unguarded words of *lord Strafford himself;* the rash writings were *his* writings; and the passionate actions were *his own.* But what is accumulated and lifted up into treason against the prisoner to-day are the unguarded words,—the rash writings,—and the passionate actions of *others;* of some with whom he differed; of many whom he never saw; and mostly of those to whose very existence he was a stranger.

Gentlemen, I have no fears for my client; but in what language shall I speak of this dreadful principle for the benefit of my country? I will speak of it in the language of the innocent victim to them;—in the eloquent words of lord Strafford himself upon his trial.

"Where has this species of guilt lain so long concealed,"—said Strafford in conclusion:—"where has this fire been so long buried, during so many centuries, that no smoke should appear till it burst out at once, to consume me and my children? Better it were to live under no law at all, and, by the maxims of cautious prudence, to conform ourselves the best we can, to the arbitrary will of a master, than fancy we have a law on which we can rely, and find at last, that this law shall inflict a punishment precedent to the promulgation, and try us by maxims unheard of till the very moment of the prosecution. If I sail on the Thames and split my vessel on an anchor, in case there be no buoy to give warning, the party shall pay me damages: but if the anchor be marked out, then is the striking on it at my own peril. Where is the mark set upon this crime?—Where the token by which I should discover it?—It has lain concealed, under water; and no human prudence, no human innocence, could save me from the destruction with which I am at present threatened.

"It is now full two hundred and forty years since treasons were defined; and so long has it been since any man was touched to this extent, upon this crime, before myself. We have lived, my lords, happily to ourselves at home:—we have lived gloriously abroad to the world:—let us be content with what our fathers have left us:—let not our ambition carry us to be more learned than they were, in these killing and destructive arts. Great wisdom it will be in your lordships, and just providence for yourselves, for your posterities, for the whole kingdom, to cast from you, into the fire, these bloody and mysterious volumes of arbitrary and constructive treasons, as the primitive christians did their books of curious arts, and betake yourselves to the plain letter of the statute, which tells you where the crime is, and points out to you the path by which you may avoid it.

* *See* his case *antè* Vol. 3, p. 1381.

"Let us not, to our own destruction, awake those sleeping lions by rattling up a company of old records which have lain for so many ages by the wall, forgotten and neglected. To all my afflictions, add not this, my lords, the most severe of any; that I, for my other sins, not for my treasons, be the means of introducing a precedent so pernicious to the laws and liberties of my native country.

"However, these gentlemen at the bar say they speak for the commonwealth; and they believe so; yet, under favour, it is I who, in this particular, speak for the commonwealth. Precedents, like those which are endeavoured to be established against me, must draw along such inconveniences and miseries, that, in a few years, the kingdom will be in the condition expressed in a statute of Henry 4th. and no man shall know by what rule to govern his words and actions."

Proud as I am of being a subject of this country my duty compels me to remind you, that all this splendour of truth and eloquence was unavailing before an abandoned tribunal, which had superseded all the rules of law and the sober restraints of justice, and which could listen unmoved to even these concluding words: "My lords, I have troubled your lordships a great deal longer than I should have done. Were it not for the interest of these pledges, which a saint in heaven left me, I should be loath"—"Here," says the historian, "he pointed to his children, and his weeping stopped him."* And if I were to attempt to proceed farther in this melancholy page, *my* tears would stop me also.

But let us look to what followed from these proceedings;—they were condemned and reversed, and stand recorded as a beacon to future generations. The actrocities, "That the turbulent party seeing no hopes to effect their unjust designs by ordinary way or method of proceedings, did at last resolve to attempt the destruction and attainder of the said earl, by an act of parliament to be therefore purposely made to condemn him *upon accumulative treason. None of the pretended crimes being treason apart, and so could not be* IN THE WHOLE, if they had been proved, as they were not. Therefore it is enacted, that all records and proceedings relating to the said attainder be wholly cancelled, and taken off the file, to the intent that the same may not be visible in after-ages, or brought into example, to the prejudice of any person whatsoever."

A similar fate attended the attainders of lord Russell and Sidney, and will, sooner or later, attend every flagrantly unjust judgment, whilst England preserves her free constitution; and, therefore, notwithstanding the ridiculous figure too frequently made by modern prophets, whose prophetic writings remain unfulfilled after the period of their fulfilment, I will hazard this public prediction—That long, long before one half of the audience which fills these benches, shall, by the course of nature, be called from the world, these very judgments in Scotland, which, more than any thing else, have produced the present trial, will be stigmatized, repealed, and with indignation reversed; not by violence, or in irregular convention, but in the ordinary legal forms of a British parliament.

The attorney-general will perhaps say, that the collateral facts are not established in order to be accumulated into guilt, as in the case of lord Strafford;—that he disavows (which I admit, to his honour, he most distinctly did) all accumulations and constructive treasons, but that he establishes them to manifest the intention which led to the transaction charged upon the record. Be it so, provided they *do* lead distinctly to that manifestation. But let us shortly examine them; and then, if the rules of the Court would permit me, I would not only ask of you twelve men, but of every man, ay, and of every woman within the reach of my voice, whether they would kill a fly upon them; yet you are asked to devote to destruction upon them the honourable gentleman who now stands before you.

The collateral facts, as my memory serves me to recollect them, and from whence the traitorous intention is to be inferred, are, that Mr. Tooke contributed to the circulation of the works of Thomas Paine, containing gross matter against the monarchy of the country;—that he consented to send a congratulatory address to the convention of France;—that he was privy to the approbation of Mr. Joel Barlow, who had delivered this congratulation at Paris; and lastly, that he had himself written a letter to the president of the convention, offering to subscribe 4,000 livres towards carrying on the war then existing between the states of Europe and France, even though part of it in the event, should happen to be applied when this country should be involved in the same contest.

Gentlemen, though I feel myself very much exhausted, I have strength enough left just to touch upon these matters in their order.

With regard to the first, I am surprised that the history of Mr. Paine's writings, and the approbation they met with, as connected with the new constitution of France, are so very little understood; and it is necessary to understand it, to account for the assent and encouragement which many persons, attached to the free constitution of Great Britain, were *forced* to bestow upon many parts of a work, though written undoubtedly by an author who was an enemy to its principles.

Gentlemen, it happened that when France threw off the galling yoke of arbitrary monarchy, which had been attended with such infinite evils to herself, and which had produced so many calamities to Great Britain, a very general exultation pervaded this country;

* See in this Collection, Vol. 3, p. 1467.

and surely it was a natural theme of exultation to the inhabitants of a country which had given light and freedom for ages to the world, to see so large a portion of the human race suddenly emancipated from a bondage not only ignominious to France but dangerous to this island. They recollected the desolating wars which her ambition had lighted up, and the expensive burthens which our resistance to them had entailed upon us; they felt also, in the terrible disasters of France, a just pride in the wisdom of our forefathers, and a wholesome lesson to the present age and posterity not to degenerate from their example. They saw France falling a victim to the continuation and multiplication of those abuses in government, which our wise progenitors had perpetually mitigated by temperate and salutary reformations; and they saw therefore, nothing to fear from the contagion of her disorders: her arbitrary state, her superstitious church, had undergone no alterations; and for want of those repairs which the edifices of civil life equally require with material structures, they crumbled suddenly into dust; whereas, by the fortunate coincidence of accident, as much as by the exertions of wisdom and virtue, *our* condition had been slowly and progressively ameliorated—our civil power had been tempered and moderated, and our religion purified and reformed; the condition of civil life had changed and bettered under their influence, and the country had started up even amid revolution with superior security and illustration.

Gentlemen, these reflections were not merely the silent, but the avowed expressions of some of the first persons in England, on the first burst of the French revolution; and, I verily believe, the same sensations diffused themselves widely throughout the kingdom; but, very unfortunately for France, for England, for Europe, and for humanity, this sensation, the natural result of freedom and independence, was not universally felt;—very unfortunately, the powers of Europe would not yield to an independent nation the common right of judging for itself in its own concerns, nor in prudence leave to it the good and evil of its own government.—All Europe combined against France, and levied war against her infant constitution.—The despots of the earth, with whom the king of Great Britain had no common interest, trembling for their own rotten institutions, and looking to the wrongs and sufferings of their subjects, drew the sword (as was natural for despotism to draw it) to dispute the right of a people to change their ancient institutions.—This very combination naturally assimilated with the patriotism of France the public spirit of England, since our own Revolution was supported upon no other foundation than the principle which was not only denied, but was by violence to be exterminated; and many persons, therefore, notoriously attached to the British government, expressed their reprobation of this conspiracy against the freedom of the world. This honest and harmless enthusiasm, however, met with a very sudden, and, in its consequences an unfortunate check. A gentleman, of the first talents for writing in the world, composed a book, I am bound to believe with an honourable mind, but a book which produced a more universal and more mischievous effect, than any which perhaps our own or any other times have produced. When Mr. Burke's book upon the French Revolution was first published, at which period our government had taken no active part against it, no man assimilated the changes of France to the condition of our country—no man talked of, or figured in his imagination, a revolution in England, which had already had her revolution, and had obtained the freedom which France was then struggling to obtain.—Did it follow, because men rejoiced that France had asserted her liberty, that they thought liberty could exist in no other form than that which France had chosen? Did it follow, because men, living under the government of this free country, condemned and reprobated the dangerous precedent of suffering the liberty of any nation to be overborne by foreign force—did it follow from thence that they were resolved to change for the accidental and untried condition of France the ancient and tried constitution of our own country?—I feel within myself that I can rejoice, as I do rejoice, in the liberty of France, without meaning to surrender my own, which, though protected by other forms, and growing out of far more fortunate conjunctures, stands upon the same basis, of the right of a people to change their government and be free. Can any man in England deny this?—Yes, Gentlemen, Mr. Burke has denied it; and that denial was the origin of Mr. Paine's book.—Mr. Burke denied POSITIVELY AND IN TERMS—that France had any right to change her own government, and even took up the cudgels for all the despots of Europe, who, at the very time were levying a barbarous, scandalous, and oppressive war, to maintain the same proposition by the sword.

This work brought forward again, after a long silence, MR. THOMAS PAINE, who was indeed a republican beyond all question, but who had become so in consequence of the same corrupt and scandalous attempt to beat down by force the liberties of a nation;—he became a republican in consequence of the similar and lamentable contest between Great Britain and America; and it is rather a curious circumstance, that THIS VERY MR. BURKE, who considers Mr. Paine as a man not to be reasoned with, but only to be answered by criminal justice, and who condemns as a traitor every man who attempts to name him,—HIMSELF expressed his approbation of the very same doctrines published by Mr. Paine, when Mr. Burke himself was pleading the cause of a nation determined to be

free; not the cause of a *foreign* nation which had always been *independent*, but the cause of colonial America, in open war and rebellion against the crown and parliament of Great Britain. Mr. Paine, during the same crisis, wrote his book called Common Sense, addressed to the Americans in arms against England, exciting them to throw off the yoke of the mother-country, and to declare their independence.—Gentlemen, from having defended Mr. Paine upon his trial for writing his later work,* which Mr. Tooke is accused of having approved, I am, of course, intimately acquainted with its contents, and with those of his former writings; and I take upon me to say, that every offensive topic against monarchy, and all the principles of the Rights of Man, now regarded with such horror, are substantially, and in many instances almost verbatim, to be found in the former publication. When Mr. Paine wrote his Common Sense, acts of parliament had declared America to be in a state of rebellion, and England was exerting every nerve to subdue her; yet, at that moment Mr. Burke, not in his place in parliament, where his words are not to be questioned, but in a pamphlet publicly circulated, speaks of this book, Common Sense, by name, notices the powerful effect it had upon the mind of America, in bringing them up to emancipation, and acknowledges, that if the facts assumed by the author were true, his reasonings were unanswerable.† In the said pamphlet, several parts of which I stated to the former jury, he declared, that he felt every victory obtained by the king's arms against America as a blow upon his heart;—he disclaimed all triumph in the slaughter and captivity of names which had been familiar to him from his infancy; and, with all the splendour of his eloquence, expressed his horror that they had fallen under the hands of strangers, whose barbarous appellations he scarcely knew how to pronounce. Gentlemen, I am not censuring Mr. Burke for these things; so far from it, that they sanctify his character with me, and ever prevent me from approaching him but with respect. But let us, at least, have equal justice. While these writings continue the object of admiration, and their author is held forth as the champion of our constitution, let not Mr. Tooke stand a prisoner at the bar of the Old Bailey for having, in time of profound peace with France, and when every speech from the British throne breathed nothing but its continuance, expressed only the same detestation of the exertions of foreign despotism against freedom, which the other did not scruple, in a similar cause, and in the time of open war, to extend to the exertions of his country.

To expose farther the extreme absurdity of this accusation, if it be possible farther to expose it, let me suppose that we were again at peace with France, while the other nations who are now our allies should continue to prosecute the war:—would it *then* be criminal to congratulate France upon her successes against them? When that time arrives, might I not honestly wish the triumph of the French arms? and might I not lawfully express that wish? I know certainly that I might, and I know, also, that I would.—I observe that this sentiment seems a bold one; but who is prepared to tell me that I shall not? I WILL assert the freedom of an Englishman; I WILL maintain the dignity of man; I WILL vindicate and glory in the principles which raised this country to her pre-eminence among the nations of the earth; and as she shone the bright star of the morning, to shed the light of liberty upon nations which now enjoy it, so may she continue in *her radiant sphere*, to revive the ancient privileges of the world, which have been lost, and still to bring them forward to tongues and people who have never yet known them in the mysterious progression of things!

It was the denial of these rights of men, which Englishmen had been the first to assert, that provoked Mr. Paine to write his book upon the French Revolution, but which was written when we were not only at peace with France, but when she was holding out the arms of friendship to embrace us. We have subpœnaed the officer of the House of Lords to attend with the correspondence between lord Grenville and Mr. Chauvelin, long, long after that period, in which you will find an absolute denial of enmity, and professions of peace and friendship, the sincerity of which declarations had been uniformly experienced by our countrymen in France, who had been received with affection, cordiality, and respect. I admit that the work of Paine contained at the same time strong and coarse reflections against the system of the British government; but Mr. Tooke not only disapproved of those parts of the book, but expressed his disapprobation of them to the author; he repeatedly argued with him the merits of our government, and told him plainly that he had disfigured his work by the passages which applied to England, and which were afterwards selected for prosecution.* Is it fair to pronounce, then, against the whole tenor of life and conversation, that Mr. Tooke approved of the destruction of monarchy, because he promoted the circulation of a book, nine-tenths of which was wholly collateral to the subject, and which contained important and valuable truths, consistent with, and even tending to its preservation? Only twelve pages of Mr. Paine's book were ever selected as inimical to the constitution, whilst above two hundred contain reflections which, if properly attended to, might secure it from the very attack he makes upon it in the rest.

* See the trial, *ante*, Vol. 22, p. 357.

† Letter to the Sheriffs of Bristol, Burke's Works, Vol. 3, p. 163, 8vo. ed. of 1801.

* See the note in p. 112 of this Volume.

Let us try Mr. Burke's work by the same test.—Though I have no doubt it was written with an honest intention, yet it contains, in my mind, a dangerous principle, destructive of British liberty.—What then? Ought I to seek its suppression? Ought I to pronounce him to be criminal who promotes its circulation? So far from it, that I shall take care to put it into the hands of those whose principles are left to my formation.—I shall take care that they have the advantage of doing, in the regular progression of youthful study, what I have done even in the short intervals of laborious life;—that they shall transcribe with their own hands from all the works of this most extraordinary person, and from the last, among the rest, the soundest truths of religion,—the justest principles of morals, inculcated and rendered delightful by the most sublime eloquence,—the highest reach of philosophy brought down to the level of common minds, by the most captivating taste,—the most enlightened observations on history, and the most copious collection of useful maxims, from the experience of common life. All this they shall do, and separate *for themselves* the good from the evil, taking the one as far more than a counterpoise to the other.

Gentlemen, Mr. Tooke had an additional and a generous motive for appearing to be the supporter of Mr. Paine—the constitution was wounded through his sides—I blush, as a Briton, to recollect, that a conspiracy was formed among the highest orders, to deprive this man of a British trial.—This is the clue to Mr. Tooke's conduct, and to which, if there should be no other witness, I will step forward to be examined—I assert that there was a conspiracy to shut out Mr. Paine from the privilege of being defended: he was to be deprived of counsel; and I, who now speak to you was threatened with the loss of office, if I appeared as his advocate—I was told, in plain terms, that I must not defend Mr. Paine—I did defend him, and I did lose my office. *

It was upon this occasion that Mr. Tooke interfered—Mr. Paine was not in circumstances to support the expense of his trial, and Mr. Tooke became a subscriber to his defence, though he differed from him, as I have told you, in the application of his principles to the British government, and had both publicly and privately expressed that difference. That Mr. Tooke's approbation of Mr. Paine's work, and of the French Revolution, were founded upon no disgust to our own constitution, was manifested in the most public manner, at the very same period. A meeting was held at the Crown and Anchor, not called by Mr. Tooke, but at which he was present, to celebrate the first anniversary of the French Revolution, where a noble lord (earl Stanhope) was in the chair, and a motion was made, "That this meeting does most cordially rejoice in the establishment and confirmation of liberty in France, and that it beholds, with peculiar satisfaction, the sentiments of amity and good-will which appear to pervade the people of that country towards this, especially at a time when it is the manifest interest" *(as God knows it is)* "of both states, that nothing should interrupt the harmony between them, which is so essential to the freedom and happiness, not only of both nations, but of all mankind." Mr. Horne Tooke—and I do not think, after I have read this, that I shall be suffered to go on making any more remarks on this part of the subject, because it is a key of the whole—Mr. Horne Tooke begged that the honourable gentleman, who was the mover, would add to his motion, some qualifying clause, to guard against misunderstanding and misrepresentation;—that there was a very wide difference between England and France; that the state-vessel of France had been not only tempest-beaten, and shattered, but absolutely bulged; whereas, in England, we had a noble, stately, and sound vessel, sailing prosperously upon the bosom of the ocean; that it was true, after a long course, she might, upon examination, appear somewhat foul at the bottom, and require some necessary repairs, but that her main timbers were all sound.—He therefore requested, that there should be an addition to the motion, but that, if that addition was not made, he should move it himself—accordingly, he did move in public, "that this meeting feel equal satisfaction, that the people of England, by the virtuous exertions of their ancestors, have not so hard a task to perform as the French are engaged in, but have only to maintain and improve the constitution which their ancestors have transmitted to them."—When Mr. Tooke moved this amendment, he did it in THE FACE OF THE WHOLE COUNTRY, and published of course, to all mankind, those opinions, which I will prove to have been uniformly his—if indeed it is necessary to prove them, when the attorney-general has been so liberally wasting his strength in proving them, for the last three days. Mr. Tooke, when he proposed this motion, was acting upon the ordinary principle of his life, which, for his own satisfaction, rather than for yours, I shall prove from year to year.—I will take him up in the year 1780, and bring him down to the very time when he comes to your bar, and show that he has ever been stedfast in favour of the pure, uncorrupted constitution of Great Britain, *but a mortal enemy to its abuses.*

This disposition is so far from being dangerous to public tranquillity, that it is its surest and its best support. Would you prevent the infection of French government

* When Paine was brought to trial, lord Erskine (then Mr. Erskine) was attorney-general to the Prince of Wales, and was removed; but his Royal Highness afterwards appointed him his chancellor, which office he held till he received the Great Seal from the King. *Editor of Erskine's Speeches.*

from reaching this country, give to the people the practical blessings of their own. It is impossible to subdue the human mind by making war against opinions; it may succeed for a season, but the end thereof is death: Milton has truly said,* that a forbidden book is a spark of truth that flies up in the face of him who seeks to tread it out; and that a government which seeks its safety in the suppression of the press by sanguinary penalties, is like the gentleman who heightened the wall of his park to keep out the crows — the human mind cannot be imprisoned; it is impassive and immortal: reform, therefore, the abuses which obscure the constitution, and I will answer for its safety. Above all other things, let men feel and enjoy the impartial protection of mild and equal laws. Thanks be to God, we have lately felt and enjoyed them in this place, and our constitution stands the firmer from the event; whilst in other countries, at the same moment, the dominion of persecution and terror has made revolution follow upon revolution, and filled the earth with blood and desolation.

Gentlemen, I will now lay before you Mr. Tooke's political sentiments when they could not possibly be written to serve a purpose; and I hope his lordship will permit Mr. Gibbs to read them, as my voice and strength begin to fail me.

Lord Chief Justice *Eyre*.—What is it?

Mr. *Erskine*.—A piece of evidence I have to offer. I am too much exhausted to read it.

Lord Chief Justice *Eyre*.—If you wish to refresh yourself, sit down; we will wait patiently; but we should know what it is.

Mr. *Erskine*.—I have nearly finished. It is a letter written to lord Ashburton, who formerly, your lordship knows, was the celebrated Mr. Dunning, who was engaged in a reform of parliament; and Mr. Horne Tooke wrote this letter to him upon the subject of parliamentary reform, in the year 1782.

[Mr. Gibbs here read the following Extract:]

"By the vote of the House of Commons on Tuesday last, parliament, it seems, do not yet think it necessary to take into consideration the state of representation in this country. However, my lord, notwithstanding that vote, I am still sanguine enough to believe, that we are at the eve of a peaceful revolution, more important than any which has happened since the settlement of our Saxon ancestors in this country; and which will convey down to endless posterity all the blessings of which political society is capable.

"My lord, my expectations are greatly raised, instead of being depressed, by the objections which were urged against Mr. Pitt's motion.

"One gentleman says, '*He cannot see any 'good purpose the motion would answer; for it 'would not assist government with a ship, a 'man, or a guinea, towards carrying on the 'war with vigour, or towards establishing that 'much-wished for object, peace.*'

"My lord, I hope the measure will be made to produce to government both *ships*, and *men*, and *guineas*. For they would be very poor politicians, indeed, who could not in one measure comprehend many purposes: and still poorer, who should miss the present opportunity of obtaining, by this one measure of reform, every desirable object of the state.

"Another gentleman apprehends that '*no-'thing less than giving every man in the king-'dom a vote would give universal satisfaction.*

"*My lord, I trust that there are very few persons in the kingdom who desire so improper and impracticable a measure. But, if there were many, the wisdom of parliament would correct their plan, and the corrected would be well pleased at the correction.*

"My lord, I shall not waste a word to show the necessity of a reform in the representation of this country. I shall only consider the mode of reform; and endeavour to show that it is not difficult to embrace every interest in the state, and to satisfy well-meaning men of every description. To this end I am compelled first to remove the prejudices, and, indeed, *just objections*, which some persons entertain to all the modes of reform which have hitherto been recommended.

"My virtuous and inestimable friend, major Cartwright, is a zealous and an able advocate for *equal* and *universal* representation; that is, for an *equal* and *universal* share of every man in the government. My lord, I conceive his argument to be this: every man has an equal right to freedom and security. No man can be free who has not a voice in the framing of those laws by which he is to be governed. He who is not represented has not this voice; therefore, every man has an equal right to representation, or to a share in the government. His final conclusion is, that every man has a right to an equal share in representation.

"Now, my lord, I conceive the error to lie *chiefly* in the conclusion. For there is a very great difference between having *an equal right to a share, and a right to an equal share.* An estate may be devised by will amongst many persons in different proportions; to one five pounds, to another five hundred, &c.: each person will have an equal right to his share, but not a right to an equal share.

"This principle is farther attempted to be enforced by an assertion, that 'the all of one 'man is as dear to him as the all of another 'man is to that other.' But, my lord, this maxim will not hold by any means; for a small all is not, for very good reasons, so dear as a great all. A small all may be lost, and easily regained; it may very often, and with great wisdom, be risked for the chance of a greater; it may be so small as to be little or not at all worth defending or caring for. Not

* See Vol. 22, p. 440.

eo qui xonam perdidit. But a large all can never be recovered; it has been amassing and accumulating, perhaps, from father to son for many generations; or it has been the product of a long life of industry and talents; or the consequence of some circumstance which will never return. But I am sure I need not dwell upon this, without placing the extremes of fortune in array against each other; every man whose all has varied at different periods of his life, can speak for himself, and say whether the dearness in which he held these different alls, was equal. The lowest order of men consume their all daily, as fast as they acquire it.

"My lord, justice and policy require that benefit and burthen, that the share of power and the share of contribution to that power, should be as nearly proportioned as possible. If aristocracy will have all power, they are tyrants and unjust to the people, because aristocracy alone does not bear the whole burthen. If the smallest individual of the people contends to be equal in power to the greatest individual, he too is in his turn unjust in his demands; for his burthen and contribution are not equal.

"Hitherto, my lord, I have only argued against the *equality*; I shall now venture to speak against the *universality* of representation, or of a share in the government; for the terms amount to the same.

"Freedom and security ought surely to be equal and universal. But, my lord, I am not at all backward to contend that some of the members of a society may be *free* and *secure*, without having a share in the government. The happiness, and freedom, and security of the whole, may even be advanced by the exclusion of some, not from freedom and security, but from a share in the government."

Mr. Erskine.—These are Mr. Tooke's sentiments, and they speak for themselves, without any commentary. It is very fortunate for me, therefore, as well as for the unfortunate gentleman whom I represent, that the subject of his defence is almost exhausted, because I myself am entirely so; and surely that circumstance must present in the strongest colours to men of your justice and discernment, the fatal precedent of such a trial; since, if I were even capable of grasping in my mind more matter than the greatest reach of human thought and memory could comprehend, the bodily strength of the strongest man would sink under the delivery.

I have been placed here, as you know, in a most arduous and anxious situation for many days during the late trial;—I have had no opportunity of rest in the interval, but have been called incessantly to the other labours of my profession, and am now brought back again to the stake without the refreshment which nature requires, for it must be a dishonest mind which could feel the tranquillity necessary for its reception; I came into court this morning perfectly subdued with fatigue and agitation, and although I knew the disposition of my honourable and learned friends to have left me at home, till the season arrived for the defence of the prisoner, yet amid the chaos of matter which the fulfilment of their duty obliged them to lay before you, it was impossible for them to know, within even hours, the time I should be wanted. I hope, however, that amidst all these pressures I have been able to lay before you sufficient information for the discharge of your duty to the prisoner and to the public.—The matter for your consideration being a mere matter of fact—*Has the prisoner at the bar conspired, with others, to depose the king, and to subvert by force the government of the kingdom?*

The sentiments of Mr. Tooke upon the subject of our excellent government, which my learned friend, Mr. Gibbs, has just read to you, would in themselves be sufficient to expose the falsehood of the charge. The publication cannot be considered as a pretext, because they have ever been uniformly supported by his conduct.—One of the most honourable men in this country now present, will prove to you that he acted upon these principles at the time he published them, and offered all his influence and exertions to promote Mr. Pitt's plan, which was then in agitation; and I will lead him on in your view, day by day, from that period till within a fortnight of his apprehension for this supposed treason. Mr. Francis, a most honourable member of the House of Commons, and one of the society called the Friends of the People, having suggested a plan for the reform of parliament, which appeared to him to be moderate and reasonable, applied to Mr. Tooke, who was then supposed to be plotting the destruction of his country, to give him his assistance upon it. Mr. Tooke's answer was this—"One-fifth, or one tenth, nay one twentieth part of what you are asking would be a solid benefit, and I will give it my support." Mr. Francis will tell you this upon his oath, and he will add what he has told me repeatedly in private, that he grew in his esteem from the candid and explicit manner in which he made this declaration. Mr. Sharpe has also proved, that at the very time when all this scene of guilt is imputed, Mr. Tooke was uniformly maintaining the same sentiments in the most unreserved confidence of private friendship. I could go on indeed, calling witness after witness throughout the wide-extended circle of all who have ever known him, that a firm and zealous attachment to the British government, *in its uncorrupted state*, has been the uniform and zealous tenor of his opinions and conduct; yet in the teeth of this evidence of a whole life, you are called upon, on your oaths, to shed his blood, by the verdict you are to give in this place.

Gentlemen, I cannot conclude without observing that the conduct of this abused and unfortunate gentleman, throughout the whole of the trial, has certainly entitled him to admira-

tion and respect; I had undoubtedly prepared myself to conduct his cause in a manner totally different from that which I have pursued; it was my purpose to have selected those parts of the evidence only by which he was affected, and, by a minute attention to the particular entries, to have separated him from the rest. By such a course I could have steered his vessel safely out of the storm, and brought her, without damage, into a harbour of safety, while the other unfortunate prisoners were left to ride out this awful tempest. But he insisted on holding out a rope to save the innocent from danger—he would not suffer his defence to be put upon the footing which discretion would have suggested. On the contrary, though not implicated himself in the alleged conspiracy, he has charged me to waste and destroy my strength to prove that no such guilt can be brought home to others. I rejoice in having been made the humble instrument of so much good—my heart was never so much in a cause.

You may see that I am tearing myself to pieces by exertions beyond my powers—I have neither voice nor strength to proceed farther—I do not, indeed, desire to conciliate your favour, nor to captivate your judgments by elocution in the close of my discourse;—but I conclude this cause, as I concluded the former, by imploring that you may be enlightened by that Power which can alone unerringly direct the human mind in the pursuit of truth and justice.

[It being now near nine o'clock at night, the Court adjourned to to-morrow morning, nine o'clock.]

Sessions House in the Old Bailey, Thursday, November the 20th.

PRESENT,

Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Grose, Mr. Justice Lawrence, and others, his Majesty's Justices, &c.

John Horne Tooke set to the bar.

EVIDENCE FOR THE DEFENDANT.

Major *Cartwright* sworn.—Examined by Mr. *Erskine*.

Are you a member of the Constitutional Society, whose proceedings have been examined in this court?—Of the Society for Constitutional Information, I am.

How long have you been a member of that society?—From its first institution.

By whom was that society instituted?—I think doctor Brocklesby was one of the first members, the late doctor Jebb was another, Mr. Capel Lofft was another.

Were you one?—I was one.

What were the objects of the association?—They proposed to give to the public Constitutional Information, as expressed in the original title of the society, and of which the members who composed it thought the public were very much in need.

Mr. *Tooke*.—My lord chief justice, I hope I am not disorderly, and I hope the motive of my application to you will not be mistaken. I had prepared a very great body of evidence before I knew the course which this prosecution might take. I am not desirous to introduce before this Court, and consequently before the nation, a great deal of evidence, which I originally thought might possibly be necessary for my defence. If the Court, the prosecutor, and the jury, should think it not necessary for me to go on, with that body of evidence which I meant to produce, I shall then be very well contented not to produce it, having no other motive whatever, than to appear to do that which is barely necessary in my own defence, and anxiously wishing that instead of losing myself in the opinion of others, or appearing to do from any motive that which is not necessary, I may confine myself merely and barely to that which I ought. I hope your lordship will not misunderstand me, I cannot speak more fully with propriety but if the Court, the prosecutor, and the jury, do not think it absolutely necessary that I should go into the evidence, I am very willing to relinquish it; and beg I may go into the evidence by the direction of your lordship.

Lord Chief Justice *Eyre*.—It does not appear to me, Mr. Tooke, that it is possible for the Court to say one word upon that subject: all that the Court can do is, when you offer a head of evidence to say, whether in their judgment that head of evidence is competent to the present inquiry. If the prosecutor thinks fit to say any thing to you upon the subject, that is quite another consideration, but the Court certainly cannot take upon itself to give any intimation or direction in any respect; for myself, individually, I have no wish to narrow the grounds of your defence in any manner, I shall wish that you may lay it before the jury, in the fullest manner, as far as the rules of law and of evidence will permit you to do it, and I shall think no time misspent in hearing it.

Mr. *Tooke*.—I am perfectly aware, and do not mean—I know if I did mean, I should not be permitted—to bring incompetent evidence; but I could do no otherwise than address myself to the Court, perfectly satisfied with your lordship's answer; but my address is, in fact, to the prosecutor, though I apply to your lordship.

Mr. *Attorney General*.—That address being made to me I think it my duty to Mr. Tooke, to inform him, that I speak at present under an impression, that when the case, on the part of the prosecutor, is understood, it has received as yet, in the opening of his counsel, no answer; and I, therefore, desire that Mr. Tooke will understand me as meaning to state

to the jury, that I have proved the case upon the indictment.

Mr. *Erskine.*—Then we will go into the whole case. Major Cartwright, What were the objects of that association, that you were proceeding to state?*—The objects of that society were simply to give Constitutional Information to the public, particularly, and expressly, for the purpose of promoting a parliamentary reform for the recovery of their lost rights.

Lord Chief Justice *Eyre.*—I am sorry to distress major Cartwright, but I do not hear one word.

Major *Cartwright.*—I was asked the objects of that society, they were simply, as far as I know, to communicate Constitutional Information to the public, and particularly to promote a recovery of what they thought lost rights, particularly meaning the right of representation in the House of Commons.

Mr. *Erskine.*—Having stated this to have been the original object, and you remaining to this hour, a member of that society—did the society ever, to your knowledge, change these objects?—I never entertained such an idea.

If there had been any deviation in the society, from its original objects, was your attendance upon it such as that you conceive you must have known it?—For the last two years it has scarcely been in my power to attend at all; but I was many years in the habit of attending that society, and never did perceive any indication whatever of changing its object, or acting upon any other principle than that upon which it set out.

Did the society, in pursuing those objects which you have stated to have existed, adopt any example or any models that had been set by other persons?—In the out-set of that society, I believe the general sentiment of the members was in favour of universal suffrage, and annual parliaments—that society was instituted before the duke of Richmond brought his bill into parliament, and before his publication of his letter to colonel Sharman; the duke's conduct, upon these two occasions, met with the concurrence and approbation of that society.

Was the duke of Richmond's letter to colonel Sharman, circulated among the members of that society?—Yes.

And did the duke's plan, as stated in that letter, receive your approbation?—That is a fact I cannot positively speak to, because I do not recollect the particular circumstance of the time when the duke's plan was so communicated; but I have no doubt at all that every member in that society, who was in the habit of attending, or who concerned himself at all about the objects of that society, did perfectly well know the nature of the plan of the duke of Richmond's bill, as well as of his letter to colonel Sharman.

Do you remember the letter to colonel Sharman?—I have read it formerly—I presume the letter brought here is an authentic copy of it.

Mr. *Erskine.*—It has been proved upon both cases, and has been authenticated upon oath here by the duke of Richmond?—Respecting the duke of Richmond's plan, as contained in the bill he brought into parliament, and in his letter to colonel Sharman, I can speak from a particular knowledge of myself, and other gentlemen, acting upon those principles, because I had the honour of many conversations with the duke of Richmond upon the subject, both before and after he brought in his bill, and wrote that letter.

You being a member of this Society for Constitutional Information, and continuing to be so after the duke's application to parliament, and after the publication of his plan, did you continue associated to carry that plan, as far as you could do it, into execution—I ask as far as related to yourself, and your own opinions?—I continued, and I believe that the society itself continued to act; I cannot pretend to say, that the sole object of the society was, to act solely and precisely upon the duke of Richmond's plan; but their great object was radical essential reform in the House of Commons. There was a considerable diversity of opinions in that society upon the precise plan that ought to be adopted, or that was most likely to succeed; some thought universal suffrage and annual parliaments, the true principles of the constitution: I was one of that number, and am of that number still; but, at the same time, I speak for myself and other gentlemen, for whose sentiments I can answer, that the Society for Constitutional Information would have thought themselves, and their country, very happy, if a reform, very considerably short of that which they conceived to be real perfection, could have been obtained.

Would you have remained, and would you stand up before me now remaining a member of that society, if, from all you know of it, all you have seen, all you have heard, all you have observed, you had had reason to believe, or to suspect, that they meant to subvert the government, and to destroy the office, and title of the king?—I would have remained in that society, let their objects be what they might, but it would have been in order to have removed men who had such objects.

Did you ever hear any person in that society, propose to bring any such matter to pass?—Never.

Until the apprehension of the unfortunate persons, whose trials bring us into this place, had you ever heard of any such disposition

* See below some observations upon the examination of this witness in the arguments which took place in this case as to the admissibility of extracts from a letter to lord Ashburton, which had been written and published by the prisoner.

in this society?—Never in the smallest particular.

Did ever any man in that society make a motion or proposition, or in discourse signify an opinion of that detestable nature, to destroy by force, the government and laws of this country?—Certainly not.

Mr. *Erskine.*—I beg your pardon for asking you these questions, because you seem to stare at me, and I do not wonder———

Lord Chief Justice *Eyre.*—Ask your questions without these observations.

Mr. *Attorney General.*—I did desire that as the prisoner and counsel were sitting there, that the witness might be somewhere else, and then that difficulty about staring might be removed.

Lord Chief Justice *Eyre.*—The questions ought to be put without these observations.

Mr. *Tooke.*—The prisoner's back was turned to the witness; I have not looked in his face.

Lord Chief Justice *Eyre.*—It was not addressed to you.

Mr. *Erskine.*—I have a right to look in his face when I examine him.

Lord Chief Justice *Eyre.*—But not to make those observations.

Mr. *Erskine.*—I will put the question again, without any periphrases, that it may be understood.—Did you ever, in all your attendance upon that society, hear any formal motion made, or even any discourse uttered, that went to any of the objects charged upon this indictment?—Certainly not.

Now, Sir, having asked you concerning the general objects of the Constitutional Society, and you having told the Court that the particular members of that society had shades of differences in opinion concerning the best mode to be adopted, I would ask whether you know the gentleman at the bar, Mr. Tooke?—I have known Mr. Tooke about sixteen years.

Has your knowledge of him been of an intimate sort?—Very intimate.

Has your knowledge been of so intimate a sort as that, knowing him in private life, and being also a member of the same society, you can inform the Court what were his principles and opinions as regarding this question?—Mr. Tooke always appeared to me, both in his public conduct and in his private conversations, to be a steady, firm, inflexible friend to a reform in the House of Commons.

Was the reform that he was the firm, steady, and inflexible friend of, upon the plan which you hold in your hand, or any plan of a different nature, short of that?—I do not know that Mr. Tooke had any particular objections to this plan, but I know that it did not concur with his particular opinions.

Have you ever argued that matter with him, and found a difference of opinion between him and you?—I have.

Did you find Mr. Tooke in any part of his public conduct, or in the course of that long intimacy which has subsisted between you, a man floating between different opinions, taking up one opinion one day and another on another, or did he appear to you to be steady to one particular opinion?—Of all men I ever knew, Mr. Tooke appeared to me to be the steadiest and most invariable in his opinions from the time that I have known him, because I believe that they were formed prior to that period, and his good sense never gave him occasion to alter them.

In the long course of the intimacy that you have before stated, and your acquaintance with Mr. Tooke's conduct in public, did you ever hear any thing fall from him disrespectful to the office of royalty in this country?—Quite the reverse: in conversing with Mr. Tooke upon subjects of that kind, at times, when other opinions were put abroad, I have always heard him maintain that the regal and the aristocratical branches of the constitution of this country were good and excellent in themselves, and that if a reform in the other branch of the constitution, meaning the House of Commons, could be obtained, that our constitution then, in his opinion, would be the most perfect of any upon earth. I am not repeating Mr. Tooke's words, because I have not a memory sufficient for that purpose, but I remember that was always the impression made upon my mind from his conversation.

Then I understand you not to be stating what Mr. Tooke has said upon any one particular occasion, but that this is the result of all that your memory furnishes you with from his conversation?—Yes, for sixteen years past invariably.

How lately have you seen Mr. Tooke before he was in the Tower, when of course you could not see him without an order?—I do not think I have seen him since the spring in the year 1792.

Did you in the spring of 1792 find any variation, or tendency to a variation, in those opinions, which he had so long inflexibly pursued?—Not the least: I can recollect a conversation, I believe two or three times repeated, at different times, which made an impression upon my mind from a sort of illustration that Mr. Tooke made use of, in order to show that his objects did not go the same lengths as those of Mr. Paine and other persons who had speculated upon government: I remember particularly his illustrating it by speaking of persons travelling in a stage coach together: he said, men may get into the same stage-coach with an intention of travelling to a certain distance; one man chooses to get out at one stage, another at another; and so some men may want something more than a reform—I want a reform in the House of Commons only. And, still pursuing his simile of the stage-coach, he said—If I and several men are in the Windsor stage, when I find myself at Hounslow, I get out; they who want to go farther, may go to Windsor, or where they like; but when I get to Houn-

alow (applying it to the House of Commons), there I get out; no farther will I go, by God.

A letter has been read in evidence here from the Society for Constitutional Information, of which you then were, and still are, a member, to the society of gentlemen called the Friends of the People, in Frith street, which has been attributed here to Mr. Horne Tooke, by the counsel for the crown: be so good as to say who wrote that letter, because your society is not a corporation?—Not Mr. Tooke; that I can say of my own personal knowledge, a knowledge which cannot deceive me.

Lord Chief Justice *Eyre*. I take that to be the letter which produced the answer from the Society of the Friends of the People, declining the intercourse.

Mr. *Erskine*. Just so, dated Free Masons' Tavern, immediately upon the institution of the Society called the Friends of the People; will you just cast your eye over that letter?—I have read this letter in the report of the secret committee of the House of Commons, I believe it is a true copy of the original.

How came you to be so well acquainted with that letter?—I was in the chair at the time that it was sent, and I was the person who subscribed it as chairman.

And you consented to the sending of it?—I did.

What was the object of sending it—I mean from what passed in the society at the time it was sent?—It had been a constant observation in the Society for Constitutional Information, that gentlemen in opposition to government, in the Houses of Parliament, very frequently made great professions of patriotism, but did not always, when their own turn was served, act up to the same principles; that letter was written as a serious, friendly, solemn warning to that new society, which was composed in a considerable degree of members of parliament.

A warning of what sort—for what purpose?—To guard them against a departure from those principles which they once professed friendly to the constitution.

Was that a general observation of the society at the time they sent the letter, or had it an application to any particular thing which either had happened, or in their conception, might happen?—I conceive it was not meant to convey any personal reflection, as applied to particular gentlemen, at that time, but only as the result of those observations that they had been in the habit of making; that such had been the practice, too frequently, of gentlemen in opposition.

I understand you then to say, that it was not meant as a reflection upon any particular man, or number of men, but in consequence of the observations and reflexions of the society upon that subject?—Just so.

Was that letter then, by the Society for Constitutional Information, sent to the Friends of the People meant to convey a determination of theirs to pursue more than a parliamentary reform in the House of Commons?—The letter I should imagine will explain that.

There have been different constructions put upon it; I want to know what passed at the time it was sent—what was the object of the society that sent it?—Certainly not meaning any thing but a reform in the House of Commons.

At the time that this letter was sent, either upon the day it was sent or before the day it was sent, or at any time before it was sent, had any thing been started, in the society that sent it, drawing towards any farther reform than a reform in the House of Commons?—No such thing: I only speak of my own knowledge, when I happened to be there: nor did I ever hear that any such thing had ever happened.

Were you a member of this new Society of the Friends of the People at the time that that letter was sent?—I was.

So then, if I understand you right, you were the chairman in the Constitutional Society who signed that letter, which was written in fact to yourself, and to others, in the character of the Friends of the People?—Yes.

Then did you mean, or did the society mean, to your knowledge, to signify to the Friends of the People, of which you were one, that you meant to do something different from yourself in another place?—Certainly not.

That letter was received by the Society of the Friends of the People; after it was received, and after the answer was sent, did you continue to be a member of the Society of the Friends of the People?—I did, and am now.

Did the Society of the Friends of the People know, and do they now know, that you, who are a member of their society, was a member of the other society, and still continue to be so?—They could not but know it, because I had signed that letter as chairman of the Society for Constitutional Information.

Do you know who wrote the answer to the letter which is signed by lord John Russel?—No, I do not.

Are there any other members of the Constitutional Society who were at that time in the same predicament with yourself, members of both societies?—I cannot call to mind any in particular just at this moment.

Was Doctor Towers one?—Yes, he was one.

Is not Doctor Towers now a member of the Constitutional Society?—Not having attended of late I cannot answer that.

Upon the whole am I to understand that until this which brings us into this place—the apprehension of the prisoner,—you neither saw nor heard any thing in this society which led you to believe that any design against the constitution was in agitation?—So far from a design against the constitution,

the very object of the society was, to support the constitution, and to restore it to its true principles.

Did you ever hear—I do not speak of a formal proposition—but did you ever hear any moving towards force of arms or violence?—No.

Have you any reason to believe, from any thing you ever heard, saw, or knew, that there was any such matter in agitation?—I have not.

Major *Cartwright*.—Examined by Mr. *Tooke*.

Do you recollect who had the title of father and founder of the Constitutional Society?—The society did me the honour to call me their founder, though other gentlemen were originally concerned in its institution with myself.

Were you acquainted with me at the time of the formation of that society?—I am pretty sure not; I think our acquaintance commenced afterwards.

Do you recollect that I was at any time, or professed myself to be, a friend or favourer of the scheme of universal suffrage?—Certainly not.

Do you recollect that I ever disputed with you that which you thought an axiom, and the ground of all your reasons, for universal suffrage?—I do.

From what author was your proposition taken upon which you grounded your plan?—The author which Mr. Tooke referred to, as supposing I then built upon, was Locke; and I recollect his observing that when I came to examine the position of Locke upon that subject—I think he called it his dogma, if I am not mistaken—that it would not bear me out to the conclusions that I drew from it.

Was I presumptuous enough to think that Locke himself, in his principle, was not safe?—From the tenor of Mr. Tooke's conversation, he appeared to me to conceive that Mr. Locke was mistaken, and that I was mistaken also. I did not go so far into the discussion of the subject with Mr. Tooke as I wished to do; but I waved it that time, as I did not feel myself sufficiently prepared to discuss so nice a question with so able a man as Mr. Tooke; therefore I wished to take farther time for consideration before I renewed the conversation with him, which I meant to do, but it so happened that I never did.

Do you recollect what that proposition was—was it this, that every man has a right to share in the government?—Yes, that was the substance of it.

That was the proposition denied by me?—I do not recollect whether it was expressed in the words you now use, but the substance of it was as you now state.

If you think there is any danger in these times, in answering the question I am going to put, you will decline it—Do you recollect publishing an engraving with numberless writings round it, tending to prove these propositions, of universal suffrage, and the right of every man to a share in the government?—Perfectly.

Do you recollect whether, disputing the principle, I did or did not subscribe, and what, to that engraving?—There was some conversation passed upon the subject; but my recollection is so faint that I cannot pretend to give an answer to say what.

From any conversation between you and myself, can you, or can you not, draw any conclusions of my opinions of Mr. Paine and his writings?—I drew conclusions, in my own mind, from conversations that Mr. Tooke and I had upon Mr. Paine's writings.

What were those conclusions?—That Mr. Tooke by no means approved of a great part of Mr. Paine's writings; but that he thought other parts of his writings would be very beneficial, not only to this nation, but to others.

Did you then think that I approved of Mr. Locke's writings?—Only in part.

Can you recollect at any time, my having spoken generally in praise of Mr. Locke?—I do not remember.

Did you ever hear me praise a pure democracy?—Quite the contrary.

Have you ever heard me contest it with those who did?—Frequently.

Major *Cartwright*.—Cross-examined by Mr. *Attorney-General*.

As far as appears by the books of the Constitutional Society, the last time you were present, in that society, was the 25th of May, 1792?—It must have been somewhere about that time.

Have you seen Mr. Tooke since the 25th of May 1792?—I think it is highly probable that I attended at the society, till about the time that I left town, since which I have not seen Mr. Tooke, till I saw him in this court.

Of course you can know nothing of the proceedings of the Constitutional Society since May, 1792, except as you may have seen them in print, or otherwise—You have not been present at any that passed?—Certainly not.

You were no party to the addresses to France?—I was a party to one address; I cannot recollect the date; but I was present at that society, to the best of my remembrance, when a letter, or an address, or something of that kind, was sent to the society called the Friends of the Constitution, or Friends of Freedom, at Paris, known by the name of Jacobins.

That must have been before the 25th of May, 1792, as that was the last day that you were in the society?—To be sure.

With respect to any future addresses to France, you were no party to them?—Certainly not.

You were no party to any correspondence with Norwich, or any other place, about a convention to be held, either in Scotland or England?—While I attended the society I

do not remember that the subject of a convention was agitated.

You were, of course, not a member of the society at a time when a letter was written to the editor of the Patriot, at Sheffield, in which it is stated that the vipers, Monarchy and Aristocracy, are writhing under the grasp of infant Freedom, and, in which the society says, may peace, happiness, and success attend its efforts?—I do not remember any correspondence of that kind, when I attended the society.

Do you remember any conversation previous to the 25th of May, 1792, (what passed afterwards you do not know), in which Monarchy and Aristocracy were spoken of by any body as vipers writhing under the grasp of infant Freedom?—I do not remember such conversation.

If any member of your society had said in a letter to a country society, that the vipers Monarchy and Aristocracy, were writhing under the grasp of infant Freedom, and expressed his hopes that success should attend those efforts, you would have been vastly surprised, should not you?—It would have depended upon the particular circumstances to which the letter applied.

Do you mean to say, that if there had been a proposition to write a letter containing those expressions, that it would not have surprised you if such a letter had been written?—If it had applied to any government where Monarchy and Aristocracy had been vipers to Freedom, I should have thought it well applied.

Then, I ask you, if it had been applied to the English monarchy, by any member of your society, after May, 1792, should not you have been surprised?—That is a general question, to which it is very difficult to give a clear and satisfactory answer; because I conceive that the meaning and the force of expressions depend upon the context of the compositions in which they are introduced.

I quite agree with you in that, there is no doubt about it that it does—You have stated what, indeed, all the world knew, that you were the father, at least you are complimented with the title of the father, of the Society for Constitutional Information—You have likewise stated, if I understand you, that you were, and still are, a member of the society of the Friends of the People?— Yes.

You have also said that the letter which the Society for Constitutional Information sent the Friends of the People, was a solemn admonition to them for the purposes you have mentioned?—Yes.

I take for granted that you could not possibly doubt but that that letter would be very well understood to be such by those to whom it was addressed—Have you seen the letter?—I have, sir. In so large a society, as that of the Friends of the People, I thought that it was very likely that there might be different opinions formed; because, in large societies, that which may appear to one man to be good and wholesome advice, may, to others, appear offensive, because every man has not sense to take advice.

You are a member, you say, of the Society of the Friends of the People?—Yes.

You may recollect my lord John Russell's writing an answer to that letter?—I do.

You may recollect also that, at a general meeting of the Friends of the People, lord John Russell's answer was approved by the Society of the Friends of the People?—I think I do remember it.

Possibly you may recollect then that the general body of the Friends of the People, of whom you were one, stated to the Society for Constitutional Information, that they would have no farther correspondence with the Society for Constitutional Information, because they looked upon the resolutions and proceedings in that letter of the society, as inimical to the principles upon which they proposed to inform and enlighten the people?

Major *Cartwright*.—There is so much contained in the question, that I have not a clear recollection of it.

Mr. *Attorney General*.—You may recollect then that the general body of the Friends of the People declined having any more intercourse with the Constitutional Society—do you recollect that?—Yes.

Do you recollect the reason of it to be this, that the Friends of the People looked upon the resolutions and proceedings in that letter as inimical to the principles upon which they proposed to inform and to enlighten the people?—I cannot recollect the words, but I remember when it was agitated in the Society of the Friends of the People, whether this letter should be sent (I think it was upon that question) that there was so much division of opinion in the Society of the Friends of the People that the question was carried by only one single vote, as I recollect.

The question about this letter was carried only by one single casting vote?—I am not sure what was the precise question relative to that letter; I think it was whether such an answer should, or should not, be sent.

You likewise, perhaps, may recollect that in that letter lord John Russell says—"We profess not to entertain a wish that the great plan of public benefit which Mr. Paine has so powerfully recommended, will speedily be carried into effect."?—I remember words to that effect.

Possibly you may also recollect that that expression is taken from a resolution of your Society for Constitutional Information, approving a resolution sent from Manchester, in which are the very same words—"that the other great plans of public benefit which Mr. Paine has so powerfully recommended, will be speedily carried into effect."?—Very possibly, Sir.

Signed by Mr. Thomas Walker,* of Man-

* See his Trial *ante*, Vol. 23, p. 1055.

chester?—I do not recollect the circumstance, but it is possible.

Do I understand you right, that after the Society of the Friends of the People had, by a casting vote, or otherwise, declared that they did not profess to entertain a wish that Mr. Paine's plans of benefit should be carried into effect, and had declared that they would hold no correspondence with the Society for Constitutional Information, that you remained a member of both?—I did, and do still.

Then you remained a member of one society which had thanked Mr. Walker, of Manchester, for a letter professing that Mr. Paine's plans of public benefit were to be carried into execution, and remained a member of another society which had expressly told you in your Constitutional Society, that they did not profess to entertain such a wish?—I remained a member of both these societies.

The Society of the Friends of the people having by a majority given this answer to the Society for Constitutional Information, did you ever explain to the Society of the Friends of the People in what respects they were mistaken about the letter of the Society for Constitutional Information, or did you admit that the letter of the Society for Constitutional Information, was rightly interpreted by the Friends of the People?—There was no explanation given on the part of the Society for Constitutional Information, but there was some explanation given by myself, and possibly, as well as I recollect, by another or two of the members of the Society for Constitutional Information, to some of the members of the society of the Friends of the People.

As you were a member of both societies, I presume you informed the Society for Constitutional Information what had passed among the Society of the Friends of the People about this difference of opinion between them?—We had conversation upon it.

You never set the Friends of the People right by informing them that you did not mean to introduce those delusive plans—you did not send another letter to explain yourself?—I did not apprehend that it was at all necessary.

Did you ever see a letter of the 26th of May 1792, from Mr. Ashton, of Sheffield, to the Society for Constitutional Information, upon the subject of this difference between these two societies?—I do not remember it.

Did you ever see a letter with any gentleman's hand-writing interspersed in it?—It might possibly have happened: but I do not recollect it.

I perceive, as far as appears by the book, that you were present at the Society for Constitutional Information and in the chair, upon the 30th of March, 1792?—I do not recollect particularly, but the book will show it.

You may possibly recollect that when you were present, there were twelve persons, associated members from Sheffield, John Paul, Joseph Gale, and others?—I think I have some recollection of some associated members being introduced, but I do not recollect any of their names.

Nor did you know any of their persons in all human probability?—Not that I remember.

But you agreed to associate twelve persons of whom you knew nothing?—I suppose it was so agreed in the society, the society were not at all afraid of strangers coming among them.

That I know;—having agreed to associate these twelve persons with your society, did you happen to see the letter from Sheffield to the society, about associating those twelve persons with the society?—Indeed I do not recollect.

Do you recollect seeing any letter from Sheffield about associating those members, with the hand-writing of other persons inserted in it?—I do not recollect particularly—if the letter was shown me, I might possibly recollect it, but I do not at present.

You may possibly recollect that there were several resolutions purporting to come from the London Corresponding Society, and purporting to be signed "Thomas Hardy, secretary," upon that same day, the 30th of March, 1792.—You have told us what Mr. Tooke had said about the rights of individuals—"Resolved, that every individual has a right to share in the government of that society of which he is a member, unless incapacitated"—"Resolved, that nothing but nonage, or privation of reason, or an offence against the general rules of society can incapacitate him"—and several others—Do you remember these resolutions?—Seeing so many of these sort of papers, I cannot recollect particularly when such papers came to my knowledge, where I saw them or met with them.

Do you remember seeing a paper in the society, containing those resolutions, with the signature of "Thomas Hardy, Secretary," in the hand-writing of Mr. Tooke?—I do not recollect it, indeed.

Do you happen to know that there was a set of these resolutions in the possession of the secretary, with the signature, "Thomas Hardy, Secretary," in the hand-writing of Mr. Tooke?—I do not know it, and I do not think I ever did know it.

Did you, or did you not know, that Mr. Tooke had been consulted about the constitution of the London Corresponding Society?—I did not know it.

It appears also by this book, that you were present upon the 20th of April 1792. Do you recollect a declaration coming from the Three Tuns Tavern, Southwark, from persons calling themselves the Friends of the People?—I think I do.

Do you recollect that that declaration is introduced by words which form the declaration of rights upon which the French constitution of 1791 was formed?—It is exceedingly possible.

Do you recollect a resolution, "That the exercise of the right of active equal citizenship, in appointing an adequate representative government, is the wisest device of human policy, and the only security of national freedom"?—I think there was a proposition of that kind.

Then here is an entry, "That the thanks of the Constitutional Society shall be given to the Society of the Friends of the People, at the Three Tuns Tavern, Southwark," who had come to this resolution. Were the thanks of the society given them?—If it appears upon their book I presume it must have been so; I really cannot recollect.

It appears also that you were present, upon the 27th of April, 1792; do you recollect that, upon the 4th of May, 1792, there were twelve people associated from Norwich?—That appeared at the Society for Constitutional Information.

No; they did not appear there?—I do not recollect; I have never looked at any of the resolutions since that time, and I cannot carry them in my head.

You know the book? You have seen it I dare say?—I have seen the book, but I should not know it again, because I scarcely ever looked into it.

Did you ever see any of the letters from Norwich, in consequence of which these twelve *gentlemen*, as they are called, were associated with the Constitutional Society?—I cannot answer; I might have seen them, if they were produced when I was present, but I really do not recollect—I have seen and heard so many papers, and so much upon the subject, that it is impossible for me to recollect them.

Mr. Paine was a member of your society?—I think he was an associated member; what is called an honorary member.

He attended pretty much at your meetings, I believe, in the beginning of the year 1792?—He did attend then.

Now as you were of both these societies—if the Friends of the People, and the Society for Constitutional Information, had set out together upon the Hounslow road, did you mean to get out of the coach at Hounslow, or how much farther did you intend to go?—I meant to go till I obtained a reform in the House of Commons.

And in any company that chose to go with you. Did you mean to travel as far as Mr. Paine would travel, or as far as the Friends of the People would travel?—I did not mean to govern my proceedings by any society, or any man whatever; my wish was to obtain a reform in the House of Commons, and I was very glad of the assistance of any man towards obtaining that object.

Whether he meant the same thing as you, or not, I observe you were present when Mr. Paine's works were recommended; had you any thing to do with supporting him in the prosecution against him?—Not that I recollect; I do not remember.

Do you happen to know what part of his books were prosecuted? Do you not know, that the part of his works prosecuted were his doctrines about the monarchy of this country?—I apprehend they were.

You were not present in the society when Mr. Paine offered them a thousand pounds, as the profits of his work?—I have some recollection of a letter to that effect from Mr. Paine, but I am not sure whether I was present when it was produced, or not; I think the letter intimated, that the profits of his work amounted to a thousand pounds, and that he made an offer of it to the society, which offer, I believe, never was accepted, for I never heard that it was.

Do you know Mr. Gerrald?—No.

You know nothing of Mr. Gerrald?—No, I am not sure that I ever saw him.

He seems to have been present upon the 18th of May, when you were in the chair?—Very likely; I have attended the meeting when the room has been tolerably full, and I have not known three faces in it.

Do not you recollect being in the chair when Mr. Paine sent his letter of the 18th of May, 1792, about the prosecution?—I do not recollect that circumstance, but I might.

If it appears by the books that the meeting determined to support the defence of the prosecution of Mr. Paine, when you was in the chair, have you any doubt that the meeting determined to support Mr. Paine?—I should take it for granted it was so. *

And this was to support him against a prosecution for those parts of the works which related to the monarchy of this country?—I rather think at that time it was not known what were the parts of his book prosecuted.

You think it was not known then what were the parts of his book prosecuted?—I think so.

But it must be known before the prosecution could come on?—To be sure.

However, if at first they did not mean to support him in that part, at last they must have meant to support him in that part—You have said, that if any body had meant to attack the monarchy of this country, you would have continued in the society, if it had been only to get them out of it—how came you to continue in the society a member with Paine, after he had published such books as you know he had published?—I did not consider Mr. Paine's writings as in the nature of a

* In Blanchard's report of this trial, the preceding question and answer are given thus:

Mr. *Attorney General*.—If it appears by the books, that the meeting determined to support Paine in the prosecution, when you was in the Chair, have you any doubt you was in the Chair at the time?

Major *Cartwright*.—I should take it for granted I was so.

conspiracy to overturn the government, but as discussions upon the subject of government.

Then upon that ground, that Paine's works were discussions upon the subject of government, you meaning not to permit any body to continue in the society, if you could help it, who were not attached to the monarchy of the country, you notwithstanding had no objection to associate with Mr. Paine in the society, who reasoned upon it in the manner we have heard; but if there had been any thing like a conspiracy, you would have staid in it to keep him out of the society?—If I had conceived that there was any man in that society acting the part of a conspirator, to overturn the government, I should have thought it my duty, not only to have opposed him, but to have removed him, if possible; and, if his crimes were of such a nature, to have made it possible to have brought him to justice. I certainly should have thought it my duty.

You were never present at the Society for Constitutional Information, in company with Gerrald and Sinclair, after they had come from Scotland?—I presume I could not.

Did you ever happen to see them any where else?—I saw Mr. Sinclair; I do not remember seeing Mr. Gerrald at all.

Did Mr. Sinclair state the proceedings that had been had in the convention in Scotland?—I have never seen Mr. Sinclair, to my recollection, since Spring 1792.

Did he inform you of what had passed in the Convention in Scotland?—Never; I never saw Mr. Gerrald, to my knowledge, in my life, but Sinclair I have never seen since the Spring of 1792.

Then I understand you finally to say, that you have not been at any of the meetings of the society since May, 1792, and know nothing of their proceedings?—I have not been at any meeting of the society since about that time; I do not know the particular date.

Major *Cartwright* re-examined by Mr. *Tooke*.

I think you answered, that you believed you did not know me before you saw me in the Society for Constitutional Information?—No, Sir.

I understood you to say, that you supposed you had not known me before that time?—What I meant to say was, that I thought my knowledge of you was after the society was formed, but it was before I met you in the society; because, I rather incline to think, that you was introduced upon my nomination, and that I had requested you to become a member of the society—I think that was the case, but I am not certain.

You have expressed so much respect for me, and confidence in me, that I need not ask you now that question, but whether, before you had respect for me, and confidence in me, you had not heard that I had been convicted of a libel? *—Yes I had.

I desire to know whether you have read the proceeding in Scotland, against Mr. Gerrald, and others?—I have only read the trial of Mr. Muir. *

Should you have thought yourself dishonoured, if, knowing no other harm of Mr. Muir, whose trial you have read, you should, notwithstanding that conviction and shameful punishment, afterwards have associated with him?

Mr. *Attorney General*.—The question must not be put in that way.

Mr. *Tooke*.—It is directly to your own question.

Mr. *Attorney General*.—I must not sit here, an officer of public justice in this country, to hear a question put in that way—"shameful punishment!"—

Lord Chief Justice *Eyre*.—I really conceived the word *shameful*, there, meant ignominious, and disgracing the person.

Mr. *Tooke*.—Certainly no other way—not at all reflecting upon those who passed the punishment.

Mr. *Attorney General*.—Then I am sorry for the interruption. I understood it in a different sense, and, in the sense in which I understood it, I thought it my duty to take notice of it.

Mr. *Tooke*.—Major Cartwright, I inquired of you, and I took a particular instance, rather than a general one, whether you, having a respect for me, and confidence in me, though you knew that I had undergone an ignominious sentence, and having read Mr. Muir's trial, whether, if you had in other respects thought him possessed of valuable qualities you should have refrained from associating with him, after that ignominious sentence had been pronounced?

Lord Chief Justice *Eyre*.—It is material, as far as regards yourself, but when you go beyond it, to the case of Mr. Muir, you go out of the case which is now in judgment.

Mr. *Tooke*.—I beg your lordship to perceive the motive with which I have asked this question, which perhaps may show its propriety. The attorney-general has cross-examined major Cartwright, in order to fix guilt upon me, by supposing that after Paine's works had been prosecuted, I had continued to associate with him. He has attempted to fix guilt on me, by supposing me to have assisted Mr. Paine's supposed poverty, by contributing to his defence. It is for that reason, and in answer to that cross-examination, that I have asked major Cartwright this question, as not only relative to myself, but to Mr. Muir, or any other person who had been convicted (which Mr. Paine had not been) of a libel, which would have induced upon him the same sort of punishment. I asked the question, in order to show, that the bulk of mankind reason in the same way—that no guilt attaches to a person, nor any disgrace,

* See in this Collection Vol. 20, p. 651.

† See his case, *antè*, Vol. 23, p. 117.

for having associated with a man after he was under a prosecution. That has been the object of my question.

Lord Chief Justice *Eyre*.—My opinion is, that it is perfectly correct for you to inquire with regard to yourself, and also perfectly correct to ask any questions that have an immediate tendency to justify your associating with Mr. Paine, but what this gentleman would do in the case of Mr. Muir has no such tendency, and therefore it is improper to be introduced, because, by the same reason, you might speak of every other man, who has been convicted within the last twenty years.

Mr. *Tooke*.—I meant any man.

Mr. *Erskine*.—We will now read the duke of Richmond's letter to colonel Sharman.

Mr. *Attorney General*.—You must call the duke of Richmond to prove it.

Mr. *Erskine*.—Certainly I am not bound to do that. There is a paper which was proved on the trial of Thomas Hardy, and has also been proved on this trial, to which I wish to point the attention of the Court — the original address to the nation, by the London Corresponding Society, upon its first institution, holding out its objects to the world, which objects, the Sheffield Society insist upon, they continued in, in answer to the letter sent them by the London Corresponding Society, that states their object in so many words, thus—"Laying aside all pretensions to originality, we claim no other merit than that of re-considering and verifying what has already been urged in our common cause, by the duke of Richmond;"—and, my lord, that is not all, for the attorney-general, within five minutes from the time I am now addressing your lordship, has laid an argumentative stress, through the channel of the cross-examination——

Mr. *Attorney General*.—I desire the question may be put immediately to the duke of Richmond.

Mr. *Erskine*.—The attorney-general will see that I do not want the duke of Richmond to prove what I hold in my hand. The attorney-general, through the course of his examination, was imputing guilt to the gentleman whom I am defending, because the Constitutional Society, of which he was a member, received twelve associated members from the Sheffield Society, amongst whom Mr. Attorney General read, within five minutes past, the name of Broomhead—that Broomhead has been examined as a witness for the Crown———

Lord Chief Justice *Eyre*. — All this is observation.

Mr. *Erskine*.—No; the attorney-general opposes my reading this letter to colonel Sharman.

Mr. *Attorney-General*.—I do not mean to interrupt Mr. Erskine; but I do humbly beg the Court will be so good as not to permit observations upon evidence.

Mr. *Erskine*.—I am not making observations, but I am arguing my right, which I understood to be opposed, to read this letter.

Mr. *Attorney-General*.—My learned friend understands it to be opposed, when I say it is not opposed.

Mr. *Erskine*.—I understood you to say that I must prove it by the duke of Richmond. I am arguing that I am not obliged to do that: this printed paper is marked by the clerk of arraigns, as the plan upon which the witness said they went.

Lord Chief Justice *Eyre*.—I think the letter has been shown to some of the witnesses, and has been proved to be a paper containing that plan upon which they went, and therefore it may be read.

Mr. *Gibbs*.—I affirm that it was; for I myself gave it to the witness, and then gave it to Mr. Shelton to mark it.

Mr *Erskine*.—[To the Clerk of Arraigns]. —Is that your signature?—It is.

Mr. *Attorney-General*.—Without more interruption it would have saved time if Mr. Erskine would have had the goodness to have said to us—this letter was shown to Broomhead, and therefore I offer it as evidence.

[Letter from his grace the duke of Richmond, to lieutenant colonel Sharman, dated, August 15th, 1783, read.]

[*Vide* Hardy's Trial, *antè*, Vol. 24, p. 1048.]

His grace the Duke of *Richmond*—(Master-general of the Ordnance)—sworn.—Examined by Mr. *Erskine*.

I have only the same question to put to your grace that was put on the former trial: your grace then stated that there had been spurious copies of the letter I then produced to you. This copy has been compared with a copy then produced by your grace—Have you that copy with you?—I have.

Your grace has no reason to think there is any difference in hearing it read?—I have not.

Mr. *Erskine*.—As I think it is my duty to make the evidence as intelligible as possible, the letter of the duke of Richmond to colonel Sharman, in favour of annual parliaments and universal suffrage, having been now read, I propose to read a letter to lord Ashburton, written and published by Mr. Tooke, in which —though I am sure every man, who has heard the letter just read, must have great respect for the author of it—Mr. Tooke differed in opinion from the duke of Richmond; it is the letter from which extracts were read last night, in the course of my address to the jury. Call Mr. John Debrett.

[Mr. *Debrett* did not immediately appear.]

Mr. *Attorney-General*.—I cannot have a doubt that any paper produced by Mr. Tooke, or Mr. Erskine, is capable of proof; but what I wish to know is, upon what principle the works of a gentleman, in a former part of his life, are evidence in such a cause as this.

With respect to this book produced hitherto, the duke of Richmond's letter, one of the witnesses, who was an associated member of the Society for Constitutional Information, has stated, that that was the plan upon which they acted; and therefore it is necessary to introduce that in the cause. Mr. Paine's books have been read, because, in the books of the Society for Constitutional Information, there are a vast number of entries which connect them, as we submit, with the publishing of that book; but I do not find, in any thing that has yet passed, any allusion to the publication now stated.

Mr. *Erskine.*—It is his declaration in writing.

Mr. *Tooke.*—I rather believe the Bench, and even the attorney-general himself will think I can easily make it admissible upon his own principle, and upon his own practice. The looseness of that evidence, by which the book of Mr. Paine was introduced a day or two ago, will enable me (even though the publisher should not appear) I believe, upon the same ground, to introduce this; for that was introduced upon the supposition that it was the same as was generally known to be circulated, and that there were none of the same kind but of that sort.

Lord Chief Justice *Eyre.*—They do not object upon that ground.

Mr. *Tooke.*—Upon the other ground, which I come to next, I think it will be still easier for me, because the indictment charges that divers books, pamphlets, letters, declarations, and writings were published; and I do not know how many more under the word "*divers*;" it is so loose that all the libraries of Europe might have been brought in evidence against me. This is a declaration, a pamphlet, a book, it is any thing that you please, contained under that word "divers;" and as others were introduced, that were written and made by other persons, because they were members of a society to which I might, or might not belong, or were connected with some society to which I did belong, and therefore were to operate against me; this is a declaration of my own, which, surely, is as clear a declaration of my mind, as those papers are of the mind of some other persons, who were connected with some other persons, with whom I might possibly be connected.

Mr. *Attorney-General.*—I shall be very glad to know how Mr. Erskine makes it evidence.

Mr. *Erskine.*—I have only to say, that it appears to me the clearest proposition in the world, what is the course of the evidence that we are now offering to your lordship, part of which has been received; and the Court cannot, without departing from that consistency which it never will depart from, shut out this evidence, after having heard what it has already heard.

We did not confine our examination of major Cartwright to an examination of that gentleman as a member of the Constitutional Society, but as a man who knew Mr. Tooke in private life—who was acquainted with his principles, and his opinions upon political subjects. If an overt-act of rebellion were proved upon Mr. Tooke, I should still think such evidence admissible; but I should think it very weak indeed; as I agree with the solicitor-general, that in lord Lovat's case it amounted to no evidence at all, where a man is taken in *flagrante delicto*, where a man is taken in open rebellion, to offer evidence of his loyal principles; but when you want to argue a man into an intention to rebel; when you wish to argue a man by his own writings, and an approbation of the writings of others, into an intention to subvert the constitution of the kingdom; when, by construction and inference, (very vague inference I think) you are to argue Mr. Tooke into the guilt of meaning, not a reform of representation in the House of Commons, which he says was his intention, and which major Cartwright, who knew his sentiments, said was his intention;—when the attorney-general means to argue that from all that Mr. Tooke has sanctioned, as written by others, he meant to go farther than the duke of Richmond meant, cannot I rebut that inference, by showing that he meant to go even short of what the duke of Richmond meant? and is it to be presumed, or is it to be supposed, in any case—I will use your lordship's own language, which is better than any which I can use—"that he who undertakes to make out that the ostensible purpose is a mere veil, that a man means differently from that which he expresses his meaning to be, must do it in a manner so satisfactory, as that it is impossible to doubt the intention to be different; for that it is contrary to all fair principle, and contrary to human life so to reason."*

Then if the *animus* is the cause, (and what else is the cause?) if the treason is in the mind—as in the mind it must be—if the overt-act be the manifestation of that treason, have I not a right (and what was the whole trial of Mr. Hardy, but the exercise of that right?) to rebut the inference? *Valeat quantum, valere potest*—I do not mean to say that Mr. Tooke, or any body else, is acquitted upon my producing any given weight of evidence; but if you do not produce any one paper which you yourself say is an overt-act, and you have proved divers papers approved of by my client, interspersed with interlineations by him, or any other species of approbation of writings composed by others, may I not rebut that presumption by the very evidence I am producing?

What is the answer? The answer is this—a man may have had these intentions, and may have had these opinions at the time when this book was published, and he may

* See Lord Chief Justice Eyre's charge to the Grand Jury, *antè*, Vol. 24, p. 205.

forsake those intentions, and he may take up others at a later period, and conspire by force to carry them into execution. He may do so, but we are examining into the probability whether he did so, and I am not to stop here, my evidence is a chain consisting of many links—not so many links as the attorney-general's evidence consists of, and not so disjointed as his links are—but all united together,—taking up this gentleman in the year 1780, as a man not going so far as the noble person who wrote that book, but differing with that noble person, highly respecting him as the author of the book; and every man, I think, who hears it read, must respect the work and the author of it, although he may differ (as I have expressed my own difference) in the universality of that representation and suffrage—I may, like my client, stop at Hounslow when another man is going to Windsor;—I mean to contend, and I give the attorney-general notice of it, that this is circumstantial evidence in order to decypher the mind of the gentleman at the bar, and to show that he is not that false traitor which this indictment charges him to be from his approbation of these books, which are not laid to his charge as specific crimes upon this record, but laid as manifestations of his intentions, and that they were published by him with intention to subvert the government of the country.

Your lordship is already acquainted with the contents of this book—I shall suppose that Mr. Debrett were here (and the objection to his not being here is I understand waved) suppose I were to say to Mr. Debrett, did Mr. Tooke come to you and ask you to publish this book for him? He did.—Did you read the manuscript? I did —Did you converse with him upon the contents of it? I did.—Did Mr. Tooke tell you that these were his opinions? He did. If that is not evidence, your lordship must score out of your book every thing you have been taking down this morning, for what else has major Cartwright been examined to, except a few things that related to the Constitutional Society? Upon what other principle was an honourable friend of mine (Mr. Francis) examined * in favour of Mr. Hardy?

Then we come to this most monstrous proposition, that though Mr. Debrett might have been examined as a witness to a conversation with Mr. Tooke, expressive of his sentiments as found in this book, yet it is not to be evidence when it is published to the whole world. Let us pause a little, and see what this proposition is, and how it will be maintained. The object of all this is to prove that you mean to obtain a subversion of the government, by infecting the minds of others with false principles of government, by infusing into the public a dislike to their own constitution, and thereby at last to be able to effect your traitorous purpose by the most powerful engine of human force, that which is beyond all arms, the power of universal opinion, against which most undoubtedly no government that ever existed could stand. Then if that be so, what says law, and what says common sense, which is the parent of all law?—Why, that a man who has that traitorous purpose, can never in the same breath be publishing a book which shows he is not of that mind, that he conceives that which has been published by another author, however honourable, is mistaken, and that his principles are not of the same sort. I have shown, and it is my object to show, that Mr. Tooke wrote this *bona fide*.—How do I show it? I do not say the book shows it, but that it is inconsistent with human belief, and opposes the whole course of human experience, that a man who wants to accomplish a purpose by the agency of others, that purpose being specifically a criminal purpose, should tell the whole public that he himself is not a friend to that purpose he wishes to accomplish. Why then at a much later period than the publication of this book, which was in 1782, major Cartwright says Mr. Tooke was a firm, steady, inflexible man to his opinions. Was he a man likely to lay down an opinion one day, take it up another, and lay it down again upon a third? Why is not the character of a man evidence? If he did not change those opinions, is that not evidence to show he was not a man likely to change?

If a man is accused of a crime, do not you examine his character as relative to that crime? If a man is accused of an unnatural crime, do you ask if he pays his debts? He may be a monster, and yet pay his debts. No, you ask to his chastity, to his morals. If a man is accused of a robbery, you ask questions analogous to the nature of the charge.—I speak to a most honourable person upon the bench, who lately tried Mr. Purefoy for the murder of colonel Roper in a duel.* What were the questions asked as to his character. Were they whether he was a good officer? Drilled his company well? Was a well-bred man? Whether he paid his debts? No, but whether he was a man of humanity. A gentleman came from a great distance to testify that humanity was the paramount characteristic of his disposition. Why then, if inflexibility, if firmness, if steadiness be the characteristic of this gentleman's mind; and if the crime imputed to him be that he has either conspired to levy war generally, of which I read something upon the record, against the king, or that he conspired to levy it in the particular modes pointed out by this indictment; that is to say, by holding a convention, with the intent that that convention, when assembled, should subvert by violence

* See the examination, *ante*, Vol. 24, p. 1104.

* For this offence Mr. Purefoy was, at Maidstone Summer Assizes 1794, tried before Mr. Baron Hotham, and acquitted.

the happy constitution of this kingdom; that he should bring about all this purpose by all these books and pamphlets, which though some of them may be, and undoubtedly were libels, they were not either published or approved of by Mr. Tooke, have I not a right to negative even the foundation of the evidence?

Does the attorney-general mean to argue that this evidence is conclusive? Suppose I mean to say your evidence is false, from which you wish to infer that Mr. Tooke saw all those letters from Norwich, Manchester, Sheffield, or any where else, without debating the quality of them, why I have a right to use this evidence two ways; to negative the probability of his seeing these letters at all; or, if he is supposed to have seen them, and to be implicated in their contents, to negative the traitorous purpose which constitutes the charge upon this record.

In the name of the prisoner and the constitution of this country, I call upon your lordships never to forget that we are here not upon the trial of a libel, but we are here upon a trial for treason, in compassing the death of the king—that no evidence is relevant which does not go to that point; that the evidence which your lordship has admitted is, that the mind of the man may be sifted, and upon no other principle can the attorney-general stand up to make his reply to the jury.

I am not charging my hon. and worthy friend the attorney-general, with meaning to shut out any thing, which for the moment his own conscience does not tell him he has a right to do; but I am arguing it fairly, and I cannot help saying, it appears to me that this is one link of a long chain of evidence which I purpose to give, and which your lordship, in conformity to your past conduct in the cause, told Mr. Tooke, in my hearing this morning, after he had explained the nature of that evidence, you should listen to with an indulgent ear, of which I have no manner of doubt, and therefore the only question is———

Lord Chief Justice *Eyre*.—I said nothing of specific evidence.

Mr. *Erskine*.—Your lordship, no doubt, expressed every evidence that was competent to be received—I am, therefore, not arguing what effect this ought to have upon your lordship's mind when received, or what effect upon the minds of the jury when received, but am merely upon the question of the admissibility of it: and your lordship must allow me to say, that it is conceded to me, that this is a book actually written by Mr. Tooke; written in his closet; when composed, carried to a bookseller; printed, and by his order put into circulation in the world by that bookseller.

I put it thus—Would this have been evidence for the attorney-general, supposing this had been a letter written by Mr. Tooke, at any time after he had shown all the proof he has of the overt-acts, in order to show that this gentleman's dispositions were never monarchical, that he was a republican from his birth, could the attorney-general have produced any thing written and published by the prisoner? I conceive there can be no doubt he could. Have you not received in evidence a letter agreed upon at Chalk Farm, when Lovett was in the chair, whom I undertake to prove Mr. Tooke never saw, until he saw him in the Tower?

Shall my client be loaded with all the inferences arising from letters, written by men of whose existence he never heard? Shall it be open to the attorney-general to produce writings at any time to show Mr. Tooke's dispositions? What, for instance, has his offering four thousand livres to France, at a time that this nation was at peace, to do with the overt-act upon the record, but upon this principle, in order to show that Mr. Tooke was interested in the prosperity of France, that he wished her to prevail against the surrounding despots invading her, England then being a neutral nation, and from thence argumentatively inferring that we were, forsooth, to take our system of liberty from the French. Then, if that be so, I wish to meet it, there are two sides in a cause, the prisoner must be heard, as well as the crown, and I cannot conceive that there is a proposition more clear upon earth, than that this, as a link in the chain of that evidence, is admissible upon the footing that it is a declaration, not of Mr. Tooke to an individual, but a more important declaration, a declaration to the whole public. In the last cause a Mr. Groves proved that Mr. Tooke stood up in a public room———

Mr. *Solicitor General*.—Not in this cause.

Mr. *Erskine*.—The last cause was tried by this Court, and, therefore, it is a precedent to which I may refer as much as I may refer to any other precedent in the books, and I can refer to it with more effect, because it is more analogous to the business in hand, because it was decided by the same judges, and because it must be in the memory of the Court.—Upon that trial Groves was asked, whether Mr. Tooke did not in a public room say so and so.*—What is that but a declaration to a great many persons, and where is the difference between a declaration by parol, to a great number of persons, and a declaration in writing to a much greater number of persons, extending to the whole of the public which, it is supposed, he intended to corrupt by the circulation of writings of an opposite tendency to that which I offer in evidence?

I shall bow with the greatest respect and humility to whatever judgment your lordship shall pronounce upon this subject; and I have no doubt my client will, and ought to be satisfied with the judgment of the Court, because every man ought to be satisfied with the justice that is administered to him in the coun-

* See Hardy's case, *antè*, Vol. 24, p. 750.

try in which he is a subject. But when I compare this evidence with the rest of the evidence admitted by your lordship, when I have had reason to see how perfectly that principle of evidence is understood by the Court, as every principle of evidence must be understood by a Court, filled with so much learning as this is, I cannot permit myself to doubt for one moment that a piece of evidence, which, after the experience we have had in the profession, appears to us to be open to no objection that can be stated, and insisted upon with effect, will be admitted by your lordships.

Mr. *Gibbs*.—I shall trouble your lordship with very few words, after the way in which Mr. Erskine has argued this.—The question your lordship is trying is, whether Mr. Tooke has been guilty of compassing the king's death. One of the overt acts stated is, that he agreed to the calling a convention for the purpose of deposing the king; there is no proof that he agreed to calling a convention for that purpose, I mean no direct proof of it; but the gentlemen on the other side, in order to give that colour to an act, the existence of which is proved, that he met with others who agreed to the calling a convention, in order to give a colour to that, and to show that his intention was, that that convention, when called, should proceed to depose the king, they go through the history of his life, they give evidence of his declarations, they give evidence of his acts, and not only that, but they give evidence of the acts and declarations of any man in this kingdom for the purpose of proving that such a conspiracy existed, and that Mr. Tooke was a partner in that conspiracy.

Now, in the first place, does not common justice, and does not common reason require, that if they mean, by entering into the general life of Mr. Tooke, to give colour to a particular act of his which is indifferent in itself, if they mean, by the history of his general life, to show that the tendency of that act was criminal as they have stated—does not common justice, does not common reason, and does not common honesty require that Mr. Tooke should be permitted to give in evidence those passages of his life, which he thinks show that this act has a contrary tendency, and to show from those acts that his principles are incompatible with what they impute to him? This which we offer in evidence is an act, a public act of Mr. Tooke's, it is more than a mere declaration; but supposing we were only offering evidence of what Mr. Tooke declared, what has been the conduct of the attorney-general, in conducting this prosecution, from the beginning to the end? What was the conduct of the attorney-general in the case of Mr. Hardy? Did he not give similar evidence from the beginning to the end? Is my client to be affected by the declaration of third persons, in order to show that he is criminal; and is he not to have the benefit of every declaration of his own, from the beginning of time, at least as far back as he has existed? When other facts exist, when other declarations can be proved to have been made, when other acts have been done which will give to this act, indifferent in itself, a tendency, directly contrary to that which they wish to give to it, shall we not be permitted to produce them?

Mr. Erskine properly observed, that when major Cartwright was called, he was questioned to acts of Mr. Tooke's life, he was asked not only to what passed at the meetings of those societies, but to conversations with Mr. Tooke, to the principles of Mr. Tooke as they were to be collected from those conversations; that evidence was given, and it was not objected to; perhaps, the learned gentlemen will say it was unobjected to because they did not advert to it. Their learning and their sagacity renders it impossible that that should be credited. I am sure that if an objection had existed to the manner in which we questioned major Cartwright, their learning would have shown them that the objection existed, and their sagacity would have led them to the discovery of it. But did not the eight days trial of Hardy consist of this sort of examination?—The whole of the prisoner's case was of that sort—I venture to say there were twenty witnesses called, who were constantly examined by my friend and me, to what had been Mr. Hardy's declarations upon the subjects of government, and what were his principles with respect to the constitution. And this sort of examination is not confined to this case. I am not prepared to cite particular cases at present, but your lordship's memory will suggest to you many cases in the State Trials, which will assure you, that I am not citing cases that do not exist. I recollect the case of lord Russell, doctor Burnet, as I remember, who was one of the witnesses for lord Russell,* was asked what had been lord Russell's declarations, with respect to his loyalty—and I remember one of those men, who was hard pressed, I think by Jeffries, I believe it was one of those concerned in the Rye-house Plot, was asked as to any declarations of loyalty that he had ever heard come from the prisoner's mouth; and he was cross-examined, not only by counsel, but by the Court; and cross-examined particularly as to where those declarations of loyalty had been uttered, in what company, whether in the company of friends or of enemies.

Now, was that a conduct the Court would have held, if they thought the question ought not to be put at all? They would have said, it matters not what your declarations of loyalty have been, the question is, whether you are guilty of the crime imputed to you, but as to your declarations they are not evidence for you. On the contrary, the Court examined to the tendency of those decla-

* See in this Collection, Vol. 9, pp. 621, 622.

rations, examined to the time at which they were made, examined as to the circumstances under which they were made, to the company in which they were made, all of which is perfectly inconsistent with an opinion in the Court, that the declarations were not evidence at all. Then, if general declarations of loyalty are evidence for a man who is accused of high treason, how much more must a public act of his be evidence to the same purpose?

Your lordship will observe, the attorney-general merely made his objection, and desired he might hear us before he addressed the Court, we have therefore no argument to answer; the attorney-general has assigned to the Court, in making this objection, no one reason whatever upon which he founds it, and therefore I have nothing from the attorney-general to answer; I have only to state to your lordships those principles of law, those authorities in other cases, and those decisions, or at least acquiescences, in this case, which seem to me to establish the principle that this which we offer is evidence. Upon that ground I hope the Court will receive it.

Mr. *Attorney General.*—I shall certainly be governed by your lordship's opinion upon the fact. Mr. Gibbs says he has heard nothing upon the subject from the attorney-general.——

Mr. *Gibbs.*—You misunderstand me.—The course of things is, when you take an objection, that you argue it first, that we answer you, and that you reply. In this case, you take the objection, you give us nothing to answer; then, if you argue it in your reply, we have no opportunity to answer it.

Mr. *Attorney General.*—I have not the least objection to your reply.

Mr. *Gibbs.*—Then it is very well.

Mr. *Attorney General.*—Your lordship will recollect in what way this comes before the Court. This book is produced as a book published in the year 1782, by the gentleman now at the bar, and a witness was proposed to be called to prove the publication of it by that gentleman. I stated to the Court what, perhaps, upon public principle, I ought to regret that I have stated, that I should dispense with the production of the witness to prove the publication. And I tell your lordship why I do it, because I perceive that every thing that is mere matter of indulgence, and to save the time of the Court, is argued upon afterwards, as affording a principle upon which evidence is to be admitted, if an objection is taken.

What Mr. Erskine says is certainly true, the prisoner is to be heard; I say that, in this country, every prisoner is heard; and I do not like that sort of observation, unless the gentleman will go farther, and say that he is not heard; great care is taken that he should be heard. Having been heard upon it, and having stated my objection, I desired also that Mr. Erskine would be so good as to state the ground upon which he conceived it to be evidence; and I am now rising to offer to your lordship a very few reasons for thinking that it is not evidence; meaning to say again, that I have no anxiety about the decision upon this point of evidence, any more than I have about the result of the cause itself, except that I may, according to the best of my judgment, do my duty to the public in the situation in which I stand. If it shall be your lordship's opinion that this is evidence, it will go down as a precedent to posterity with infinitely more authority belonging to it than if it had been admitted merely upon my consent; and it will be, therefore, for the benefit of the public, that the objection should be taken. I take leave also to say now, that I will not trouble your lordship with one single word upon the effect of the evidence. I will not answer what has been stated about the infinite number of links of the chain in the evidence which has been offered on the part of the prosecution, nay, not even to observe, that these links are so far from infinite, that, as far as I have heard of them of late, they are but few in number.

It is stated, that in the case of my lord Lovat, evidence of this sort could not be received.——

Mr. *Erskine.*—I did not say, could not be received; but, would have no sort of weight when received.

Mr. *Attorney General.*—If my learned friend puts it so, I have no farther observation to make upon that case. But I cannot conceive, that if lord Lovat could have been proved to be the author of five hundred books upon the law of treason, and against levying war against the king, it would have been possible for him to have offered in evidence publications of that sort, after the evidence for the crown had been heard to prove—I do not say to establish by a verdict, for it is never taken in that sense to be proved till the jury have given their verdict; but after witnesses had been heard to depose, that lord Lovat was actually found in the field of battle, warring against his sovereign, it could not possibly be contended in such a case that that evidence could have been received.

With respect to the case of Mr. Purefoy, it appears to me exactly the same. There could be no doubt, unquestionably, that when a person is charged with that species of murder which is occasioned by duelling, or when charged with any other species of murder, that you may call witnesses to prove his general humane character; but would it have been competent to call witnesses to prove, that, ten years before, he had wrote a book against duelling, and therefore the jury is to acquit him of the fact of the duel, which was deposed to on the part of the prosecution?

My learned friend says, that the prisoner is not charged with the publication of libels; I do most distinctly admit it; and I desire it

to be most fully understood, that if the indictment is not brought home to the prisoner to the extent of the charge contained in that indictment, this Court and the jury have nothing to do with any other charge. But when my learned friend mentions—or, I believe it was the gentleman at the bar, who stated it very strongly—that the indictment states divers books, pamphlets, letters, instructions, resolutions, *et cetera*, inciting the subjects of our lord the king to come to this convention; and when the indictment also states divers books, pamphlets, letters, instructions, resolutions, orders, addresses, and writings, in another overt act, stated in the indictment, of which little notice has ever yet been taken, did mean to bring about a conspiracy to subvert the government and to depose the king (whether proved or not it will be for the jury to judge by-and-by); which must go to the jury, even if they should be of opinion that this convention was not the mean to bring about the end charged in the indictment. I mean to contend, that if I have proved that divers letters, instructions, resolutions, &c. had been composed and published by the prisoner to the end stated in the indictment, I am still at a loss to see upon what ground it is to be said that, because I have proved that, the prisoner is at liberty to give in evidence a book exhorting persons, in the year 1782, to other conduct, and other acts than those which are the acts, and the conduct to which he has incited by the books, &c. which I have given in evidence, between the years 1791 and 1794.

The case of Mr. Francis, who was examined on the trial of Hardy, has been mentioned; now how did that stand? It had been proved, that the London Corresponding Society, and the Society for Constitutional Information, had, upon the 16th of April, I think 1793, distinctly stated, in letters to certain societies, which have been read again upon this trial, that their correspondents were not to look to the executive power of the country, not to look to the parliament of the country, but to look to a Convention of the People, formed by delegates from themselves. It had been proved, that in the address of the 6th of August, 1792 (which your lordship has heard within these two days) these societies had recommended a petition to parliament, not under the idea that parliament was to give them any relief, but that they had recommended that petition to parliament as a measure to bring the public mind to the other measure which is charged in this indictment as criminal, namely, bringing about that redress by their own strength, and their own force, which they had so distinctly stated the parliament and the king were not to give them.

Then on the part of Mr. Hardy it was proposed, that Mr. Francis should be called—to do what? Why, to prove that Hardy and Margarot came to him in the course of that very project which had been deposed to on the part of the prosecution, in order to answer what had been stated on the part of the crown, and to answer it in the course of a transaction immediately connected with the transactions of the society at that time;—that they had come to Mr. Francis, and had held a language with him to induce him to present that petition, which convinced him that the prayer of the petition had gone a great deal farther, than, as he understood from conversation with Hardy, Hardy would have been contented that the prayer of that petition should go. That was a fact, in the course of the transaction which was then before the Court, and that was part of the conduct of the prisoner then at the bar, in the very article of his conduct as an associated member of the London Corresponding Society, explaining to Mr. Francis the object of that very identical measure to which we had, in the prosecution, imputed a criminal intent, and supported that criminal intent by a great deal of evidence which was to go to the jury. That appears to me most perfectly distinct from the present question.

As to the proceedings at Chalk Farm, my friend asks, upon what ground were they admitted? Your lordship recollects, that, upon the 27th of March, 1794, the London Corresponding Society sent a letter about a convention (of what sort is for the jury to decide by-and-by) which contains certain resolutions, which resolutions, in the very terms of them, say, that there is to be a convention, not of delegates of the societies, but of the people, by delegates from the societies; and, in the communication of those resolutions, it is added, that they (the Corresponding Society) are to have a meeting upon the 14th of April, 1794. Then the proceedings of the 14th of April, 1794,—the proceedings of the associated members, in the course of this, which, as prosecutor—always meaning to submit that question to the jury, but which, as prosecutor,—I am bound to call a traitorous conspiracy, till they, by their authority, have told me I ought no longer to call it so. The proceeding, therefore, of the 14th of April, is a proceeding in the course of that very transaction, it is an intermediate proceeding between the communication of the purpose of a convention, and the completion of that purpose, as I call it: they appointed a committee of correspondence and co-operation, by those resolutions, a corrected draft of which was found in the prisoner's hand-writing.

My friends take another objection to the letter offering four thousand livres to the French. Here are papers found in the custody of the gentleman at the bar, at the time when that gentleman is a member of the Constitutional Society, which had corresponded (according to the evidence) with the Jacobins in France—corresponding with the Jacobins when that country had a king—which was corresponding at the very time to which these

letters, by the contents of them, refer, with the National Convention in France, when that country ceased to have a king, a subscription going forward in the Constitutional Society, as the witnesses have deposed—this letter was in the custody of the prisoner, relating to that very subscription, and stating, when addressing the National Convention of France, without a king, that the cause of France and England is a common cause, is the same cause. But, beyond that, my friend will recollect the connexion of that letter with the immediate transaction, from this circumstance, that, before that was offered, a letter was given in evidence, of the 8th of August, from Hardy, and another from Margarot, in which they state, to the gentleman at the bar, a question, to desire to know his thoughts about a safe communication with respect to France; and then, there is afterwards entered, upon the books of the Society for Constitutional Information, that address, which begins with the words "Frenchmen, while foreign robbers"—and which has this passage—"The elector of Hanover may do as he pleases, but if the king of Great Britain should forget this, we will not;" and which concludes with a passage to which the attention of the jury must be called by-and-by. I will say nothing about the effect of it at present.

A paper is found in the custody of the gentleman at the bar, which, whether meant as his own address or the address of some other persons, it is for the jury to decide presently. These livres were sent to the National Convention of France, to oppose the tyrants who had dared, or should dare, to attempt their liberties, even if they were of the country of the person that is proved to have written that paper. It is upon these grounds I take that paper strictly to be an article of evidence in the course of the transaction, and connected with every part of it.

Then it is said by Mr. Gibbs, if this is the case you may give evidence of the declaration of any man in this kingdom.

Mr. *Gibbs.*—I did not say you might have done; I said, I understood you had done so.

Mr. *Attorney General.*—I say again, I hope to conduct myself, throughout these causes, with temper, because I know it is my duty that I should do so. I labour under a mistake quite inexplicable to my own mind, if I have offered evidence of any man in this kingdom, whose declarations, upon the principles of legal evidence, can properly be objected to. I have offered the declarations of persons combined in this, which I call, without prejudice, to the question, whether I call it truly so or not—which I call a conspiracy; the declarations of members associated in that conspiracy, wherever I may happen to find them in the kingdom—every man in the kingdom, in that sense of the word, provided those declarations have a reference to the conspiracy which is the object of the prosecution. My objection to this evidence is, that it has no reference to the conspiracy which is the subject of the prosecution, no more than if, for instance, Mr. Serjeant Hawkins had robbed a man upon Hounslow Heath, I could give in evidence his Criminal Law of England, because there happens to be a strong observation in it, not only upon what the law is, with respect to robbery, but with respect to the immorality of the fact of robbery.

With respect to what is stated, as to what passed in the case of major Cartwright, I shall give this answer to it, let it avail much or little—The observation has called upon me to state what I have stated, because I think the public will be much better satisfied with your lordship's judgment upon this, than mine; and, I am sure it will go down with greater weight to posterity, when it is known to be the opinion of the judge, than merely the opinion of the attorney-general of the day:—and give me leave to say, I have no personal interest about this cause, but great interest committed to my care, which I have reason enough, God knows, to wish committed to any other, but I must, holding this office, take care that the justice of the country, be satisfied, and I have no farther desire upon it.

With respect to major Cartwright, it is true my friend did ask him questions to which I think I was entitled to object, but I have on the part of the public gone this length, that when a short question is put to which a short answer is given, I have been misled by a wish to save the time of the Court, rather than upon any idea that, upon principle, it could not be objected to; but when I am told of that indulgence which I have no right to give (for I have no right to give indulgence, and I owe an apology to the Court and the public), but if that indulgence is to lead to a great body of evidence, with a great variety of links in the chain, and I feel that there is a solid objection to that sort of evidence, it is my duty to ask your lordship's opinion upon it. If the evidence is of a nature that, in the mind of any human being, can do the prisoner any good, I will go so far as to say, for myself, and I say it without affectation, that I feel as an individual, a strong wish that your lordship's judgment may be against me, but, let it be remembered, that the public is to be heard, as well as the prisoner, the prisoner is to be heard for the sake of the public; the interests of the public are never consulted, unless the prisoner is heard; and I avow it as a principle in conformity, to which I hope, I shall conduct myself, that I am an unfaithful servant of the crown, if I do not remember, that the protection of the crown is due to every person standing in the situation in which this prisoner is—that it is a right he has to demand from the attorney-general, and that, as far as my heart will regulate my judgment upon this, no individual ever had a more anxious inclination, that every prisoner should have the full benefit of that right. I sit down

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without farther observation on this point, begging the opinion of the Court.

Lord Chief Justice *Eyre*.—If nobody else speaks on the part of the crown, I will not trouble you, Mr. Erskine, to reply. If this evidence is offered upon the ground of a declaration of the prisoner's, counter to some other declarations that may have been given against him in evidence, on the part of the prosecution, that is not a solid ground upon which this evidence can be admitted; because there is nothing so clear, as that all declarations which a prisoner makes against himself, are, by the law of England, evidence against him, upon this presumption, that no man would be supposed to make a declaration against himself, unless it were true, and that, on the contrary, the declarations which he makes for himself are not evidence for him, because there the presumption is directly the other way.

If it be insisted upon, that this is to be received as evidence upon the score of general character, I doubt extremely, whether, in respect of the particularity of it, it can be received, because general character is general character, and it is not a collection of many moral or religious acts of a man's life, but the result of all. General character may be opposed by evidence, but if you are, on the part of the prisoner, to go into all the particulars of his life which are in his favour, you will have an undue advantage in that respect, because the crown cannot be prepared to oppose that evidence. We have very often gone into too many particulars, upon evidence of general character; but, whenever that point has been discussed, it has been found, that the true way of examining to character was, to the general character.

It is certainly true, that, upon a charge of treason, a prisoner has been permitted to give evidence, under the head of general character, that he was reputed to be a good and loyal subject. If the charge went to the particular case of his having a design against one of the great orders of the state, you might examine witnesses to show, that his general character was, that he was reported to be a man firmly attached to the constitution of the government in King, Lords, and Commons; but it would be irregular, as I take it, to give particular instances in evidence.

But, in my apprehension, evidence, of the nature of that which is now offered, was given in the other cause; and, I think, ought to be admitted in this case; and I am of that opinion, upon the very ground of objection stated by the attorney-general. Mr. Attorney-general states, that his objection is, that evidence of this nature has no reference to the conspiracy which is charged. To the conspiracy which is charged in the indictment, in the very language of the indictment, perhaps it has no reference, but the question is, whether it has, or has not, reference to the proof which has been offered in support of the charge in the indictment; and whether it is not proper evidence to repel that proof? The proof that has been offered is this—that this prisoner, and the other persons concerned with him, under pretence of parliamentary reform, and holding that out to the world as a mere colour and pretext, had meditated a convention, which convention was to usurp the powers of the government, and to overturn the constitution of the country. Now it does appear to me, that evidence is, in its nature, proper to repel that charge which tends to prove the principles and opinions, and fixed sentiments of the man who is charged with using reform of parliament as a pretence, that to prove the reform of parliament was the real object of his pursuits, thus supporting the reality of the grounds which he takes, it meets the evidence in support of the charge. It was upon that ground, as I understand it, that all the evidence was admitted in the case of Hardy, to show, that from the observations of the witnesses on his conversation and conduct, he was a sincere friend to a reform in parliament, upon the plan of the duke of Richmond. Upon that ground, it appears to me, that it has an immediate relation to the evidence that has been given in the cause, as it goes to repel that evidence; and that, upon this ground it ought to be admitted.

I desire to be understood carefully to avoid laying it down as a rule, that evidence of this nature will be admissible in all cases of high treason. In cases where, perhaps, the overt act is in itself a plain act of treason, as for instance in the case of lord Lovat, where the distinct fact charged was his appearing in open arms, undoubtedly professions or discourses of loyalty would not meet that fact at all, and would only resolve themselves into evidence of general character. As to the question now before us, I think we have in effect admitted this evidence before. I hope that we have admitted it upon a solid ground, it is a ground which, I confess, satisfies my judgment; and I think, therefore, that we ought to admit it in this case.*

I would add, that I have so often explained the grounds upon which the acts and transactions of other persons have been admissible, namely, to the general conspiracy, leaving the other part of the case as second in the order of things, viz. the question, how far the prisoner is concerned in that general conspiracy, that I do hope that it will not hereafter be objected in a way that (though I am persuaded it is not meant) tends to throw a certain degree of reflection upon the admission, as if all the declarations of all mankind

* See as to this 1 East's P. C. 61: and Phillipps's Law of Evidence; ch. 7, s. 3, p. 144, 3d Edit.—See also some doubts of the propriety of the admission of this evidence expressed by lord Ellenborough, chief justice, upon the Trial of Lambert and Perry for a libel A. D. 1810, in this Collection.

without limitation, and without any personal application, should be admitted in evidence to load a particular person.

Mr. *Gibbs.*—I understand your lordship, in saying that, to allude to my argument, I certainly did throw that out; I meant only to say this—That, in this cause, the evidence must be taken to touch the prisoner, otherwise it would not be admissible; though I am aware of the division your lordship makes that evidence has been received of any man who is proved to say any thing which touched this cause, and which was proved to touch this cause merely by his saying it; and it seemed to me, that that rule having been laid down as to the admissibility of evidence against the prisoner, did furnish an argument not improper to be used by me, that evidence of the description we offered should be received for him. I am sure I was far from meaning, directly or obliquely, to cast the smallest imputation upon any decision the Court have come to.

Lord Chief Justice *Eyre.*—You stated your proposition a little too generally, and not quite so guardedly as you do now, but I am perfectly satisfied.

Mr. *Attorney-General.*—Before the title is read, as Mr. Debrett is not here ———

Mr. *Erskine.*—He is here.

Mr. *Attorney-General.*—It will save trouble if you will tell me when this was published.

Mr. *Erskine.*—On the 10th of May, 1782.

Lord Chief Justice *Eyre.*—It escaped me, or I should have mentioned that the date affords a strong observation upon the evidence; the sentiments and opinions of a man very publicly declared, at such a period as that, and the same opinions and sentiments brought down to the present hour, in a connected manner, by the rest of the evidence, seems to me to be a proper link of the chain.

Mr. *Attorney-General.*—It is hardly consistent with the respect I owe to your lordship to say what my opinion upon the subject is, but I am perfectly satisfied with your lordship's opinion.

[The following Extracts were read from "A "Letter to lord Ashburton* from Mr. "Horne, occasioned by the debate in "the House of Commons, on Tuesday, "the 7th of May, 1782,† on Mr. Pitt's "motion for a Reform in Parliament."‡]

"My lord;—The importance of the subject on which I address your lordship, sufficiently dispenses with preface, introduction, apology, compliment, or ornament. And the criticalness of the moment excuses hasty publication. It would be ridiculous to cast a thought on the manner of my expression, if the matter is useful.

"By the vote of the House of Commons, on Tuesday last, parliament, it seems, do not yet think it necessary to take into consideration the state of representation in this country.—However, my lord, notwithstanding that vote, I am still sanguine enough to believe, that we are at the eve of a peaceful Revolution, more important than any which has happened since the settlement of our Saxon ancestors in this country; and which will convey down to endless posterity all the blessings of which political society is capable.

"My lord, my expectations are greatly raised, instead of being depressed, by the objections which were urged against Mr. Pitt's motion.

"One gentleman (Mr. Powis) says, 'He 'cannot see any good purpose the motion 'would answer; for it would not assist go-'vernment with a ship, a man, or a guinea, 'towards carrying on the war with vigour, or 'towards establishing that much-wished for 'object, peace.'*

"My lord, I hope the measure will be made to produce to government, both *ships*, and *men*, and *guineas*. For they would be very poor politicians, indeed, who could not in one measure comprehend many purposes; and still poorer, who should miss the present opportunity of obtaining, by this one measure of reform, every desirable object of the state.

"Another gentleman apprehends, that 'nothing less than giving every man in the 'kingdom a vote, would give universal sa-'tisfaction.'

"My lord, I trust that there are very few persons in this kingdom who desire so improper and impracticable a measure. But if there were many, the wisdom of parliament would correct their plan, and the corrected would be well pleased at the correction.

"Other gentlemen assert, that 'the con-'stitution, as it now stands, has stood for 'ages, without any material alteration.'

"My lord, it will not be difficult to prove the contrary, by an easy inquiry; and if they will begin with the last unexampled alteration recently made, by the late administration, at SALTASH, the objectors will hardly have countenance to proceed any farther.

"Another gentleman 'thinks the ques-'tion premature, and that this is not the 'time.'

'Another, that 'the people do not desire it.'

"And another, that the people CANNOT, indeed, desire it at any time; because 'they 'have no voice but in the House of Commons.'

"My lord, it would be safer for this latter doctrine, if another similar doctrine could

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* The celebrated Dunning, who had been advanced to the Peerage on the 8th of the preceding April.

† See the debate in the New Parliamentary History, Vol. 22, p. 1416.

‡ As to this pamphlet, see Memoirs of John Horne Tooke, interspersed with original Documents by Alexander Stephens, Esq. Vol. 2, p. 35.

* See 22 New Parl. Hist. p. 1422.

be coupled with it; and if it could be proved that the people have no HANDS neither but in the House of Commons. This VIRTUAL voice of the people of England resembles too nearly the VIRTUAL representation of the people of America in the same place, to be attended with any happy consequences.

"But, my lord, I turn with pleasure from these little subterfuges, towards what I suppose to be passing in your lordship's mind. The end which I believe your lordship to have, at all times, in your view, is, happiness to all beings capable of happiness; and especially HUMAN-HAPPINESS, as universally extended as possible. But though an individual's wishes may be, and ought to be unbounded; however exalted, his actual endeavours must usually be limited; and, therefore, NATIONAL-HAPPINESS, with the permanent security of that happiness, is the ultimate object of a patriot.

"To this end all his other objects must be considered only as means. Even freedom itself is valuable, only as a means indispensably necessary to that end.

"My lord, I find myself compelled to repeat these well-known sentiments; because most of the errors of mankind, in all their pursuits, arise from stopping short in their progress, and mistaking some means for the end. We every day behold it in the practice of the covetous, the ambitious, &c. And *at this moment* I conceive it to be necessary to warn the well-meaning patriot from the same mistake.

"My lord, I shall not waste a word to show the necessity of a reform in the representation of this country. I shall only consider the mode of reform; and endeavour to show that it is not difficult to embrace every interest in the state, and to satisfy well-meaning men of every description. To this end I am compelled first to remove the prejudices, and indeed, *just* objections, which some persons entertain to all the modes of reform, which have hitherto been recommended.

"My virtuous and inestimable friend, major Cartwright, is a zealous and an able advocate for *equal* and *universal* representation; that is, for an *equal* and *universal* share of every man in the government. My lord, I conceive his argument to be this: every man has an equal right to freedom and security. No man can be free who has not a voice in the framing of those laws, by which he is to be governed. He who is not represented has not this voice; therefore, every man has an equal right to representation, or to a share in the government. His final conclusion is, that every man has a right to an equal share in representation.

"Now, my lord, I conceive the error to lie *chiefly* in the conclusion. For there is very great difference between having an *equal right* to a share, and a right to an *equal share*. An estate may be devised by will amongst many persons in different proportions; to one five pounds, to another five hundred, &c. each person will have an equal right to his share; but not a right to an equal share.

"This principle is farther attempted to be enforced by an assertion, that 'the all of one 'man is as dear to him, as the all of another 'man is to that other.' But, my lord, this maxim will not hold by any means; for a small all is not, for very good reasons, so dear as a great all. A small all may be lost, and easily regained; it may very often, and with great wisdom, be risked for the chance of a greater; it may be so small, as to be little or not at all worth defending or caring for. *Ibit eo qui zonam perdidit.* But a large all can never be recovered; it has been amassing and accumulating, perhaps, from father to son for many generations; or it has been the product of a long life of industry and talents; or the consequence of some circumstance which will never return. But I am sure I need not dwell upon this, without placing the extremes of fortune in array against each other; every man whose all has varied at different periods of his life, can speak for himself, and say whether the dearness in which he held these different alls, was equal. The lowest order of men consume their all daily as fast as they acquire it.

"My lord, justice and policy require that benefit and burthen, that the share of power and the share of contribution to that power should be as nearly proportioned as possible. If aristocracy will have all power, they are tyrants and unjust to the people, because aristocracy alone does not bear the whole burthen. If the smallest individual of the people contends to be equal in power to the greatest individual, he too is in his turn unjust in his demands; for his burthen and contribution are not equal.

"Hitherto, my lord, I have only argued against the *equality*; I shall now venture to speak against the *universality* of representation, or of a share in the government; for the terms amount to the same.

"Freedom and security ought surely to be equal and universal. But, my lord, I am not at all backward to contend that some of the members of a society may be *free* and *secure*, without having a share in the government. The happiness and freedom, and security of the whole, may even be advanced by the exclusion of some, not from freedom and security, but from a share in the government.

"My lord, extreme misery, extreme dependance, extreme ignorance, extreme selfishness (I mean that mistaken selfishness, which excludes all public sense), all these are just and proper causes of exclusion from a share in the government, as well as extreme criminality, which is admitted to exclude; for thither they all tend, and there they frequently finish.

"My lord, I know I shall receive no answer to this but—the difficulty of drawing

the line of exclusion on these accounts; and the possibility or danger of abuse, by a pretence of these extremities. The bare *possibility* of abuse, I hold to be no argument; the danger and the difficulty I will show to be easily removeable.

"His majesty's conduct has rescued his own personal character from censure, (for in spite of forms and decorum kings have a personal character) and I doubt not he will for ever henceforward remain very dear to his subjects. He stands fully justified from all that has passed; for he has listened to the voice of his people, where the constitution intended that their voice should be heard, and to which place the royal ear is by the same constitution directed. Members are sent to parliament to keep up the communication between the king and his subjects. There it is, in a real and fair parliament, that the people wish their voice to be truly heard; and that they may have removed from them the occasion of those honest, because necessary, though irregular meetings, petitions, and interference to which they have for some years past been involuntarily driven. But the voice of the people in the present reign has not been heard till lately (and then heard but once) within the walls of the House of Commons, nor will it be ever heard there again; fresh errors and fresh misleadings will again take place; the voice of contractors, of pensioners, and jobbers, together with the proprietors of a few decayed burgage tenures, will again be called the only voice of the people, unless the honesty, or the good sense of administration afford the remedy by reforming substantially the vices of representation.

"We have been accustomed to be told, that there was something *behind* the throne. My lord, there can be nothing behind the throne more malevolent to the rights of the people, than what we now see before it. The people are no longer to be cheated, they look to administration for the late defeat of their wishes

"What! can they who have carried all for themselves, carry nothing for the people, who, if ministers themselves are to be credited, have pushed them into office? The people know that if all the present administration had chosen to do them justice, if they had been half as unanimous for national rights as they have been for national honours and emoluments, the question would have been highly carried last Tuesday. Good God! Is it always to be thus? one pay-master *denies*, the other *despises* the voice of the people.

"What, says he to the people! If your hands are dirty, will you go to the puddle to clean them? I am heartily sorry, my lord, that there should be any members of the present administration who require to be informed, that the same thinness of the web which makes the water-bubble rise; when risen, makes it burst.

"If they are timely wise, they will yet give to the people their *sober*, *moderate*, fair and honest rights.

"The prerogative of the crown, which is glorious to the monarch, and beneficial to his subjects, they will place (as it ought to be placed) high, brilliant, and independent.—A great weight at bottom can bear a great weight at top.

"Let the aristocracy, unenvied, enjoy their full and honourable proportion of influence to which they are justly entitled in the state; but let them cease, as a faction, to shackle the hands of their sovereign, whilst they debase and plunder his subjects."

Major *Cartwright* called again.

Mr. *Tooke*.—Is that your hand-writing? [showing the witness a sheet of parchment.]

Lord Chief Justice *Eyre*.—What is this, Mr. Horne Tooke?

Mr. *Tooke*.—This is an association into which this gentleman, a member of the Constitutional Society as I am, and a member of the Society of the Friends of the People, entered, and has signed with his name; it is an act of his, of the same nature as those acts which have been brought against me, to show the disposition, intention, and objects of persons who associated together. This gentleman is a member of that very society to which I belong, as well as to others; this will show what his mind was in other societies, in order to show what his mind was in that society to which he and I belonged.

Lord Chief Justice *Eyre*.—As far as it tends to show your mind, it will be material; but as far as it tends to show major Cartwright's mind, it is perfectly immaterial.

Mr. *Tooke*.—I thought that the minds of other persons, connected with other persons, with whom I am connected, had been, all through this trial, produced against me, to show what my mind must be, their minds being supposed to be similar.

Lord Chief Justice *Eyre*.—Their minds in the measures charged against you—this association makes no part of the charge against you.

Mr. *Tooke*.—Nor does any other association, I believe, make a part of the charge against me. I will tell your lordship where, by whose means it is we are entangled, and why that evidence, which is not admissible in any other case, is competent to be admissible where a specific fact is produced against a man undoubtedly ignorant, as I am, of the proceedings of a court of justice.

I should have been the last man in the world to have proposed in a court, for any client, to have produced any prior or posterior declaration of the party supposed criminal, but the prosecutors here have driven us to such sort of evidence, as any man, who ever had attended to the proceedings of a court of justice, would have blushed to have beheld in any other case; and we are driven to it,

because of the kind of overt-act laid in our indictment, which has compelled the prosecutor to produce a sort of evidence which was never produced before; which has compelled the court in these trials, to sit from day to day, and has produced that train of evils of which I unfortunately am the victim. Thus we stand in every sort of charge, except this charge of compassing the death of the king.

I am very fearful, lest in what I am going to say, the whole bar, or any gentleman of the profession, should mistake me, or think I mean to impute any thing to them; and therefore I must mention to your lordship, that it is the case with persons in all those professions, by which fortunes and greatness are obtained, that they confine their attention and keep closely and strictly to the study of those parts of their profession from which their advantage is to spring; and I will mention an instance, because the gentlemen should not suppose that I mean any joke, or ridicule upon them.

It happened to me, in the course of my pursuits, to have occasion to know the particular parts of the organs of speech. I, first of all, applied to all the books of anatomy which I could get at; having done so, I made a friendship with the best anatomist of his day, who added to his professional skill great common sense, and he, when I came to inquire of him upon the subject, though no anatomist myself, was exceedingly astonished: he fluttered, he hesitated; at last he confessed to me—sir, you know more of this matter than I do, though an anatomist; for no gain can possibly spring to me, or to surgeons, from a knowledge of the parts of the organs of speech, no disease being there, and we are never called in, for that purpose, to have a fee. The same case happens with the gentlemen at the bar—from that my misfortunes arise—and I mention this first, to show I mean no particular imputation or slur upon them. The mischief of this whole matter arises from hence: The gentlemen at the bar are very wise, indeed, in all the applications of law because from thence arise all their fees; but, in regard to the cause of law, they very rarely consider it, for no gain can arise to them from so doing. Hence arises this mischief: all penal laws are made supposing those laws to be applied to men whose inclinations are contrary to that which the law desires men should pursue; that is taken for granted, for the sanction of every penal law is punishment: there is no occasion to apply the sanction of punishment to men to prevent them from doing what they are disinclined to do.

How is the case here? Look through the whole of these proceedings, you will find that an attempt is now made, not to punish the bad actions of men, but to punish their supposed inclinations—here lies our mischief, the whole turn of this prosecution, and all the evidence seems to endeavour to prove upon men certain inclinations—republican inclinations—antimonarchical inclinations—inclinations unpleasant to the government of this country; whereas, a man, provided he does not *act*, may be a republican, which I never was, as will appear very plain; but had they been my sentiments, I might have declared those sentiments, the law punishes no inclinations, the law supposes the inclination, and that it is restrained merely by fear of that punishment which the law sanctions. But there happens to be, in this indictment, one single charge of intention—the compassing the death of the king; which is alone the crime, and the overt-act is only the proof; here we get entangled, because the intention is the crime, and the only one; in all other cases the act is the crime, but here the intention is the crime; consequently, the law bound up so strictly, as you know better than I do, the necessity of the overt act to be laid, because the inclination or intention is the crime. Now we have got into this indictment, on which I stand here, at the risk of all and every thing I have.

An innocent overt-act—a meeting to go to church, if that had been the overt-act in the indictment, with the intention and purpose of compassing the death of the king, would have been just as fatal to me as an overt-act of a meeting—not a meeting indeed, but merely stating it as our opinion, that it would be desirable that certain persons should meet together in order to appoint other persons. And, I take it, that all my difficulty, and the difficulty of the prosecutors, and all my entanglement, springs from an overt-act being laid by which I might be made out guilty by every thing upon earth that it is possible to produce; and, for that reason, your lordship has fairly and candidly——I am sure all the conduct I have received from your lordship and the prosecutor has been such as totally to change the temper of my mind, with which I first came into this Court;* and I shall never be able to express the gratitude I have to acknowledge for it. But I think that in the course of that kind of reasoning which your lordship has held, of permitting that sort of evidence to be admitted, which would not in any other case, I think that under that rule I am permitted to introduce this as evidence. This is the original act of the association in the year 1780, signed by eight or ten gentlemen of distinction, now in the Court; major Cartwright one, a member of the Constitutional Society; Mr. Fox another; Mr. Sheridan another; persons of distinction, understanding, station, every thing; and they go to the very same overt-act, with expressions stronger than those which are used by any society that I have heard of, and omissions greater than any that have been charged as crimes—for omissions have been charged as crimes. The word *parliament* sometimes inserted, sometimes omitted; if omitted it is a crime—if

* See p. 7, note 1.

inserted it is a pretext; so that whether the relief was to come from parliament, or parliament is not mentioned, we are in the same case; the attorney-general has loaded me with crimes both for doing and for not doing,—if I insert, it is pretext; if I omit, it is crime.

I wish to introduce it to show, that, if I am a traitor, every man who deserves the respect of this country is a traitor, the minister himself into the bargain, for I have his hand-writing, and I shall call him to give evidence to his own signature. Every minister that has, at any time, been respected or talked of in this country, I can prove to be equal traitors with myself.——

Lord Chief Justice *Eyre.*—You must easily see, that if you could prove that, it would not touch this charge; I could have wished that you would have forborne a great deal of what you have now said, which goes not to the main substance of your defence. What you were to do at this moment was simply to have opened to us what the nature of this association was, that we might see whether it fell within the compass of the rule which was laid down before, or whether, upon any other principle, it could be admitted as evidence. You have gone only now so far as to state, that it is some association, in which your name, with other great names is to be found.

Mr. *Tooke.*—No, my lord, this is too criminal for my name to be found in it. My name was never to such an instrument as this.

Lord Chief Justice *Eyre.*—Whatever other people have done, neither constitutes your guilt nor your innocence; if they have done right things, if they have done imprudent things, if they have done treasonable acts, it does not go one jot towards the present inquiry.

Mr. *Tooke.*—Your lordship will pardon me as you have all through, for the mistakes I have been guilty of, if I introduce what I ought not; but, I confess, I cannot help believing that the jury would not very willingly pick out one single traitor from the country to make him an example of.

Lord Chief Justice *Eyre.*—I cannot tell how that may be, but I must go by the rules of evidence.

Major *Cartwright.*—Happening to be called up again, I wish to add a word or two of explanation to one of my answers to the attorney-general, when he asked me what persons I would take to my assistance in compassing the end I had in view.

Mr. *Attorney General.*—The question I asked you was this—That if you were one of the Friends of the People, who rejected all correspondence with the Constitutional Society, and also one of the Constitutional Society, who had received an intimation that their correspondence was rejected by the Friends of the People, I think the question I asked (perhaps not in strictly proper terms) was—Whether you would get out with the Friends of the People at Hounslow, or stay in with the Society for Constitutional Information. — In other words—Whether you would go in a stage-coach even to Hounslow with people of different political principles, whatever their principles were?—I think my answer was, that I would take the assistance of any man whose end I thought right. I beg, to prevent any misunderstanding of that answer, to say—by legal, regular, moral, and constitutional means, and not by any others; and I beg to explain it thus—I have signed many petitions for a reform of parliament in company with men whom I have thought very bad indeed, but there is no man so bad with whom I would not sign a petition, and concur for obtaining that object.

Lord Chief Justice *Eyre.*—That may be a very sincere declaration, major Cartwright, but it is not a very prudent one; because, in connecting yourself with bad men, you can never be sure that you may not be carried far beyond your own purpose.—I mean, that if I am doing any act as a citizen, such as signing petitions. Men with whom I have acted upon those occasions, are men whose faces I have never seen, and with whom I could not admit myself upon all occasions to associate with regard to their other purposes.

Mr. *Tooke.*—I beg your lordship's direction relative to the admission of this evidence which I propose, because it will determine me whether I shall relieve a great number of persons of rank whom I have kept in waiting. —This evidence of the Westminster Association I understand to be not admissible.

Lord Chief Justice *Eyre.*—I take it to be clearly so.

Mr. *Erskine.*—I propose to call Mr. Fox, and I will state, without any observation, the purpose for which I call him—to prove acts of Mr. Tooke which mark clearly and distinctly his political sentiments, for the reason your lordship has pronounced, to bring him down from an antecedent, to a later period.

I mean to call Mr. Fox, to prove, that Mr. Tooke attended a general meeting of the delegates of committees from towns and countries, convened at the Thatched-house tavern, Saint James's-street, and was strenuous to assent to Mr. Pitt's plan for a moderate and gradual reform, and to return Mr. Pitt thanks for the motion he had made to that purpose in the House of Commons.

The Right Honourable *Charles James Fox* sworn.—Examined by Mr. *Erskine.*

Do you remember seeing Mr. Tooke at the Thatched-house tavern, St. James's-street?—Yes, very well.

When?—I think somewhere about the year 1785; I think it was very soon after one of Mr. Pitt's motions for a parliamentary reform; in the year 1785, to the best of my remembrance.

Upon what occasion were you present at

that time at the Thatched-house tavern, when you there saw Mr. Tooke.—To the best of my recollection,——I speak entirely from recollection,——there was a meeting called in very general loose terms, of all the Friends to Reform,—I think that was the general mode in which the meeting was called; and, to the best of my recollection, it was called by Mr. Wyvill, to meet at the Thatched-house tavern, soon after Mr. Pitt's motion, in the year 1785, had been made.

Were any gentlemen appointed by any particular districts to attend that meeting?—Certainly not.

Do you recollect, upon Mr. Tooke's being there, any thing passing upon the subject which brought that meeting together?—To the best of my recollection, the object of those who called that meeting was, to give a direct approbation to the specific and particular plan of reform which had been proposed by Mr. Pitt, in the House of Commons.

Upon that occasion did Mr. Tooke assent to, or dissent from, that which had been done?—To the best of my recollection, he supported a motion for giving approbation to the specific plan of reform proposed by Mr. Pitt.

Do you recollect whether there was any motion to return thanks to Mr. Pitt, for the proposition he had made?—I do not recollect whether it was in that form—I recollect the substance more than the form—that what was intended was to convey an approbation of the specific mode of reform proposed by Mr. Pitt, whether that was in a motion declaring their approbation, or in a motion of thanks to Mr. Pitt, is what I do not recollect.

But your recollection serves you that Mr. Tooke attended there as a friend to the measure?—I have not the least doubt of that; I think he supported the motion, which appeared to me to be designed for the purpose of conveying an approbation to the specific plan proposed by Mr. Pitt, in which many others, among whom was myself, did not think fit to join.

The Right Honourable *Charles James Fox* cross-examined by Mr. *Attorney General.*

I understand Mr. Tooke, at that meeting, approved the specific plan of reform of Mr. Pitt?—I understood so—it might be in the form of thanks to Mr. Pitt, and not in that form.

It is necessary in a court of justice to prove what was the specific plan of Mr. Pitt—if you recollect what the motion in the House of Commons was, I shall be obliged to you to state it?—The general tendency of the plan of reform, as well as I recollect it was, a general proposition, that if any boroughs (I forget whether they were particularly described or not) proposed to sell their right of sending members to parliament, that the right should be purchased by the public, and in lieu of members chosen for those boroughs, a right of election was to be given, as well as I recollect, either to the freeholders of the counties at large, or the freeholders of the districts of counties.

Philip Francis, esq. * sworn.—Examined by Mr. *Erskine.*

You are a member of the Society called the Friends of the People?—I am.

I believe you took the trouble to draw up the plan of reform to be submitted to that society?—I did.

Have you that plan here?—Not in Court.

After you had prepared that plan of a reform in the House of Commons, and submitted it to the consideration of this voluntary society, of which we are both members, do you remember seeing Mr. Tooke?—Yes.

How long ago?—In the course of the Summer of 1793.

Upon what occasion was it that you saw Mr. Tooke?—Though I had not the honour or the pleasure of an intimacy with Mr. Tooke, I had known him long slightly, and even of that slight acquaintance there were many intervals in which I never saw him.—Upon the occasion of my having drawn up the plan, to which a former question alludes, I met Mr. Tooke by accident in my road to town (he lives near me in the country) knowing, or believing him to have been at all times a strenuous advocate for a reform of the House of Commons, and knowing him to be one of the most learned men in the kingdom, particularly with respect to the points to which that plan had reference, namely, the Antiquities, the History, and Constitution of this country, I thought I could not do a better thing for the object which I had in view, or any thing more expedient for my own instruction, than to ask the favour of him, which I did, to examine this plan particularly, to inform me if any of the references, or any of the authorities, or any of the laws and customs to which the plan alludes, were mistated, as likely they might be by a person so little informed, or much less informed upon these subjects, that he would have the goodness to examine it attentively. I did not desire to discuss the principles of it with him at all, but merely that he would be so good as to examine it with respect to authorities and references, and upon this to inform me if I had incorrectly stated any thing: he said he would undertake to do that for me, and that he would make some observations upon it, in consequence of which I called upon him three or four times at his house at Wimbledon, and I availed myself of the information he gave me, and corrected my plan in some particulars.

From the conversation between Mr. Tooke and yourself, in consequence of his having

*. Afterwards Sir Philip Francis, K. B.

looked over this plan—Did you make any observations how far his sentiments concurred with yours, and whether he would be ready to support that plan which you had proposed?—It did appear to me, that in general and upon the whole, he approved of it much.

Do you remember whether Mr. Tooke did not say, that though he approved of your plan, in the manner you have now described, that even if that could not be accomplished, short of that would be a satisfaction to him?—It must be remembered that the conversations I had with him I never conceived could be brought forward to any farther application, and they did not make all the impression upon me that the merit of his observations might be entitled to.

Lord Chief Justice *Eyre*.—Do you recollect his saying he approved your plan in the manner you have now described; but that if that could not be accomplished, even short of that would be a satisfaction to him?—I do not recollect.

Mr. *Erskine*.—Did your plan extend to a reform in any other part of the constitution, than the representation of the people in the House of Commons?—To nothing else.

From any of the conversations you had, *bonâ fide*, and confidentially with Mr. Tooke, so lately as 1793, did any thing pass which led you then or now to believe or suspect, that Mr. Tooke disagreed with you in the great principles of the constitution?—I thought not.

Philip Francis, esq. cross-examined by Mr. *Attorney General*.

You did not desire to discuss the great principles of the plan, but merely that he would examine it with respect to the authorities and references?—That was the ground upon which I asked him.

Mr. *Erskine*.—Do you recollect any thing being said in the conversation between you about the Scotch Convention?—Yes, I think there was.

Mr. *Erskine*—Do you recollect what he said about it?—I think he told me, that he had been applied to or solicited to be a member or delegate from some of the London societies to that meeting, and that he had positively refused it. I also think he told me, that in consequence of his refusal he stood in great disrepute, in great suspicion with some of the popular societies.

Mr. *Attorney-General*.—You say you think Mr. Tooke told you so, can you take upon yourself to be certain of that?—Indeed, I am certain of it, I can say it positively.

I will take the liberty to put the question to you in the shape of an assertion, because you proved it the other day * that Margarot and Hardy called upon you to request you to present a petition to the House of Commons, in 1793?—Yes they did.

Did you know, at that time, that Margarot and Hardy were associated members of the Constitutional Society?—I did not know it.

Nor no intimation was given you, at that time, that Margarot and Hardy were associated members of the Society for Constitutional Information?—If it is meant the society which sent the petition.

That was the Corresponding Society?—I am not sure that I know the distinction between the two, but I conceive they came to me from the society of which Mr. Hardy was secretary, and no other.

Had you reason to believe, at the time you talked with Mr. Tooke, in 1793, that he had been any way concerned in forming the London Corresponding Society, and regulating it?—I knew nothing of it.

You are one of the Society of the Friends of the People, I think?—I am.

Were you a member of the Friends of the People, when lord John Russell's letter was sent to the Society for Constitutional Information, to inform them, that the Friends of the People would have no communication with them?—I was.

Have you recollection enough of the transaction to know whether that resolution was carried by a casting vote, or by a larger majority?—I am positively certain that it was carried by much more than a casting vote; there never was a division in that society which was carried by a casting vote but once, and it was not upon that subject.

Did you happen to know, after that communication had passed between your two societies, that several persons who were members of the Society for Constitutional Information, still remained members of the society of the Friends of the People?—I understood that there were some persons—particularly major Cartwright, and some others.

Have you any reason to know of the existence of a letter from Sheffield, to the Society for Constitutional Information, relative to the correspondence which had taken place between them and the Friends of the People?—I cannot speak to that point.

Philip Francis, esq.—Re-examined by Mr. *Erskine*.

You are asked whether you knew that Mr. Tooke had had any concern in framing the propositions to the public, published by the Corresponding Society?—I know nothing of it.

You knew that there was such a society?—I did.

Have you seen, upon the books of the society of the Friends of the People, a letter from the Constitutional Society, asking them to send a delegate to this convention?—I do not immediately recollect it, but if it is upon the records I must have been present at it, because I attended all the meetings.

Mr. *Erskine*.—It is a letter signed by Mr. Breton;—declining that, but saying as far as

* See Mr. Francis's evidence on the Trial of Thomas Hardy, *antè*, Vol. 24, p. 1104.

their object was a reform in parliament, you were ready to co-operate with them?—I do remember that.

At the time this letter was written to the Society of the Friends of the People, asking them to join in sending a delegate, which was declined by the Friends of the People, but yet in that civil way, that they were ready still to co-operate with that society—Did you know that there had been a Convention at Edinburgh?—I do not remember.

Philip Francis, esq.—Examined by Mr. *Tooke*.

You have been asked whether you discussed with me the plan which you had proposed for a reform in parliament. You answered, I think, that you had not discussed it with me. Will your recollection lead you to say that we did not discuss that plan together?—I stated that in applying to Mr. Tooke for his assistance, it was not with a view to discuss the principle, for upon that my mind was formed, but to receive information and correction, if I had misstated any thing respecting the authorities and references.

Lord Chief Justice *Eyre*.—The question Mr. Horne Tooke puts to you now, is whether, in fact, in the course of your conversations, you did enter into any discussion of the plan with him?—It is very likely we might.

Mr. *Tooke*.—Does your recollection carry you far enough to know whether, in the course of the Summer of 1793, you visited me once, twice, thrice, or oftener?—I cannot be positive to the number of times, it was convenient to me in that part of the country, to call upon Mr. Tooke, it might be four or five times, perhaps, in the course of the Summer or Autumn.

Might it not be five or six times?—It might.

His grace the Duke of *Richmond*—(Master-General of the Ordnance) called again.—Examined by Mr. *Tooke*.

I beg your grace to recollect whether I ever waited upon you with Doctor Brocklesby at the Ordnance office, in Palace-yard, Westminster?—My own recollection does not serve me upon this occasion, but Doctor Brocklesby having told me that he had done so, I make no doubt that it was so.

I ask some questions in order to assist your grace's recollection, which otherwise it is not necessary for me to ask.—Does your grace recollect a young man in the drawing-room in the Tower of the name of Edridge when first your grace was made Master-General of the Ordnance?*—It has escaped my memory.

Does your grace recollect the reform, that when first you were made Master-General of the Ordnance, you made in the drawing-room at the Tower?—I do.

Do you recollect that the course of education was altered, and that Woolwich was preferred for many of them to the drawing-room in the Tower?—It was.

Does your grace recollect that in consequence of that, two or three young men at the top of the drawing-room in the Tower, were by change of situation, as they imagined considerably aggrieved, hurt in their income, and do you recollect any application about it?—I had applications of various kinds, but precisely I do not recollect that.

Does your grace recollect giving to me a letter for lord Mulgrave, who at that time was paymaster, recommending this young man, Edridge, whose name I mentioned?—I have some faint recollection of that, but the matters being of so long a date, and having never thought of them since———

So much business may easily put these small matters out of your grace's mind?—I have some recollection of the circumstances you mention.

Perhaps you may recollect my waiting upon you at the office of Ordnance with this young man, in order to request your grace's assistance that he might be remedied in some manner, for the misfortune which happened to him there, by applying to lord Mulgrave, in order to obtain for him a situation in another department?—I do not recollect that.

Perhaps your grace recollects seeing me at the office of Ordnance at that time?—I do—but it had escaped me till Doctor Brocklesby mentioned it.

Mr. *Tooke*.—I shall not do it if the Court tells me it is improper, but perhaps in such a state of not recollecting, it may be necessary for me to put my question in a plainer manner than I should otherwise do, because I know, in examinations in chief, it is the rule to ask general questions to facts, and let the witness recollect them.

Lord Chief Justice *Eyre*.—Pursue your own method; if it does not lead you too far, we shall probably not think it necessary to check it.

Mr. *Tooke*.—Perhaps your grace may recollect (after the business of this young man was concluded, and you had kindly given me a letter for the paymaster for him), asking me whether I approved of Mr. Pitt's specific plan for paying to those gentlemen who were proprietors of boroughs, and who that plan supposed were not willing to yield any thing essential to the salvation of the country, unless they were paid for it—perhaps your grace may recollect asking me whether I approved of that part of Mr. Pitt's plan?—I am very sorry that I cannot recollect it.

Perhaps a circumstance which struck you at that time, may recall the whole to your recollection—can your grace recollect that you

* The duke of Richmond was first appointed to the office of Master-General of the Ordnance in March, 1782; from this office he was removed in April, 1783; he was reappointed to it in December 1783, and *thence held it* until November 1795.

disliked the expense that it would cause to the nation, and do you recollect a proposal I made that instead of the proprietor of a borough having an hereditary right to a seat in the House of Commons, an exchange might be made, and a peerage given to him, by which he would have an hereditary seat in the House of Lords?*

Duke of *Richmond.*—Pray state that again.

Mr. *Tooke.*—That a sort of exchange might be made—that a peerage should be given the proprietor of a borough, by which he would have an hereditary seat in the House of Lords—a suggestion from me that great expense might be saved, and great benefit might accrue to the nation, since the representation would be reformed without any hurt to any body, by giving to the proprietor of a borough a peerage, as an hereditary seat in one House, instead of an hereditary seat in the other, as a full compensation for this reform in the representation of the country?—I cannot say that I recollect it—it is very possible that such a thing may have been said to me, but I do not recollect it.

Has your grace no recollection of the advantage that was stated to arise to the country from such a scheme?—It is at such a distance of time, and not having had any idea that I should be called upon for it again, I cannot recollect it.

I should not have thought your grace would recollect it, except for the extreme satisfaction that at that time you expressed———I am far from saying that it did not pass, only that I do not recollect it.

It would have been so far a pleasure to me, because it shows I was for promoting a peaceable method to satisfy the proprietors of boroughs—Does your grace ever recollect to have met me in a more public place, and which it will not be easy to forget—in a convention of the city of Westminster, with the city of London, the borough of Southwark, the county of Middlesex, and the county of Surrey, not by delegation—to the number of a thousand or twelve hundred together—a convention of them under the name of the Quintuple Alliance?—I recollect having met Mr. Tooke upon a public occasion of that sort, but whether exactly that he describes I cannot tell—It was the Quintuple Alliance at the London Tavern.

Where, I suppose, your grace may perhaps recollect you have frequently met me?—I have several times seen Mr. Horne Tooke at public places, but whether exactly at the London Tavern or the Thatched House (I think I met him there)—I cannot charge my memory to the exact places.

I first endeavour to draw to your grace's recollection the Quintuple Alliance, and then I would beg to ask your grace whether you recollect at any of those meetings of the Quintuple Alliance having declared to those who were present, that we must not reproach you and other gentlemen in your station, if you did not succeed in a parliamentary reform, for that the people must do it for themselves?—I cannot say that I recollect that.

Your grace will recollect it, perhaps, from this circumstance, it was a very tempestuous evening—Do you recollect the time of the Coalition, commonly so called, the junction between lord North and Opposition?—Perfectly.

Does your grace recollect the very forlorn situation in which I stood when sir William Plomer was mayor, with about twelve hundred gentlemen, with your grace amongst them, very much enraged at me for supporting the independence of the crown against this junction of parties to seize power?—So far from recollecting that, I never felt any animosity to any body for a proposal of that kind.

Your grace recollects the circumstance of the meeting and the stormy night, I suppose?—Do you recollect being displeased at too free

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* The following particulars relating to this interview between Horne Tooke and the duke of Richmond are stated by Mr. Stephens to have been communicated to him by Mr. Tooke's nephew:

"Mr. Tooke called on the duke of Richmond one day at the Tower, respecting the case of a young gentleman, whose name was Edridge, and who had been removed from his situation in the Long Room, as Mr. Tooke thought unjustly. As soon as this matter was settled, his grace asked Mr Tooke what he thought of Mr. Pitt's proposition for raising a sum of a million for the purpose of buying up the rotten boroughs?

"Mr. Tooke replied, he deemed it unnecessary, as the boroughs might be got rid of without putting the nation to any expense whatever! And, that if Mr. Pitt would only do a tenth part of what he promised, he should never hear his name again but in his praise.

"Upon the duke's desiring to be informed how this was to be effected? Mr. Tooke said, 'let every man who has a borough be made a 'peer; and, if he has more than one, let him 'nominate a friend or friends; he would be 'glad of the exchange, and the people would 'be equally so, because they would care but 'little how many peers were made, but would 'care very much for the money to be taken 'out of their pockets; and there could be no 'injustice in the case, even considering the 'seats in the view of private property, be-'cause those who did not choose to be lords 'of parliament might be permitted to sell the 'seats to such as did.' His grace expressed his astonishment and delight at the suggestion, and mentioned it to Mr. Pitt, who took advantage of it only in part; for he made the proprietors peers, and, at the same time, left them in full possession of their boroughs." *Stephens's Life of Tooke, Vol. 2, p. 376.*

a mention being made of Mr. Fox?—do you ever recollect at any period at the Quintuple Alliance, having seen me in the situation of standing for an hour alone against the hootings and hissings of the meeting, and succeeding at last to have their unanimous approbation?—I recollect having seen Mr. Tooke at some of those meetings, but at what meeting I cannot say; very often in a minority, and arguing, and speaking with great ability, but I cannot recollect the particular subject, and very often gaining great approbation, but really I do not at this distance of time remember the circumstances so as to be able positively, upon my oath, to state the particular occasion.

Was your grace a member of the Society for Constitutional Information?—I was.

How many years back?—That I do not recollect.

I would ask your grace that which I think it impossible for you not to recollect—Whether you ever heard me at any of those meetings, say any thing against the King, the Lords, or the constitution of the country?—Never—quite the contrary I assure you.

Do you recollect introducing Mr. Pitt at a convention of delegates from the different counties and great towns at the Thatched House Tavern?—I recollect having met Mr. Pitt there, but I do not remember that it was by my introduction.

You met Mr. Pitt there?—I have met Mr. Pitt at some of those meetings; I think at the Thatched-House Tavern.

Can your grace recollect that, at that meeting, you were principally concerned in persuading those who were present, to give up their own private opinions, and leave it to the honour and discretion of Mr. Pitt what plan to pursue, in order to obtain a reform in parliament?—I do recollect it.

Your grace recollects that this convention of delegates met, when we placed our confidence in Mr. Pitt, for that purpose; that we met, we knew not for what, and parted, not knowing what would be done. I am putting, in other words, what your grace has recollected; that we met, and, having met, trusted to the honour of Mr. Pitt, to pursue such plan as, in his discretion and honour, he should think fit, in order to obtain the object that we had in view?—Yes.

Lord Chief Justice *Eyre*.—What does your grace recollect?—I recollect a meeting with Mr. Pitt, I think, at the Thatched House Tavern: and I do recollect that I, at that meeting, did endeavour to persuade those who were for a more extensive reform, not to insist upon that, but to trust to the attempts that would be made by Mr. Pitt, in the House of Commons, for a more moderate reform.

Mr. *Tooke*.—Not knowing any thing specifically?—I do not pretend to say, whether it was mentioned what that plan was to be or not, but I did what I could to induce those, who were for the more extensive reform, to withdraw their wishes upon that occasion, and to trust to the more moderate one that was to be proposed by Mr. Pitt.

Mr. *Tooke*.—I understand your grace to have answered to my question—that, as there were different opinions in this convention of delegates from the counties and great towns, (and very numerous they were) that we were persuaded, each individual, to relinquish his own particular sentiments, and to trust to the discretion and honour of Mr. Pitt, to take such steps as he, in his wisdom and judgment, should think fit?—I recollect that, but I do not recollect that the heads of Mr. Pitt's plan were then known.

I will endeavour to recall your grace's recollection to the time I speak of. Perhaps your grace may be pleased to recollect, that, after sir George Saville had not chosen to undertake the business, and Mr. Pitt was proposed, this was the first meeting in which Mr. Pitt appeared in public, in the business of parliamentary reform, and therefore his particular plan could not be known, because your grace will recollect, that Mr. Pitt's first motion, made on the 7th of May, 1782, was for a committee of the House of Commons; your grace recollects that?—Yes.

Consequently, at this time, there could be no specific plan, because it was three years before it was brought?

Lord Chief Justice *Eyre*.—There is a little too much of argument in this—put it by distinct questions—Can the duke of Richmond state, first of all, when it was that this conversation passed?—I cannot say exactly the time.

Lord Chief Justice *Eyre*.—Can you recollect whether it was before or after there had been any motion in parliament by Mr. Pitt?—I speak by a sort of guess upon it—I rather think it was after.

Lord Chief Justice *Eyre*.—But have you any recollection?—No.

Mr. *Tooke*.—Perhaps his grace's recollection may serve him thus far—Do you recollect whether the specific reform proposed by Mr. Pitt, was after he was minister or before?—After.

Then can your grace recollect whether you ever attended any convention, or public meeting, with Mr. Pitt, after he was minister?—I believe not.

Mr. *Tooke*.—Consequently, by your lordship's assistance, I have fixed the time to be before.

Lord Chief Justice *Eyre*.—Does your grace conclude, from that circumstance, that this was before Mr. Pitt had made his motion?—Before he had made his last motion.

Mr. *Tooke*.—Previous to the first motion?

Lord Chief Justice *Eyre*.—Was there more than one motion made?—I think there were two motions made.

Mr. *Tooke*.—Mr. Pitt made two motions; one in the year 1782, for a committee of inquiry, another a specific plan, in the year

1785. I believe in 1785 Mr. Pitt was minister—in 1782 he was in no office whatever. The duke of Richmond says he does not apprehend he attended any meeting after Mr. Pitt was minister; consequently, a recommendation to the persons there met, to trust to Mr. Pitt's discretion what plan he would follow, must have been for the previous motion—must have been for the committee of inquiry.

Mr. *Attorney General.*—I will only ask one single question—Your grace says that this meeting agreed to trust to Mr. Pitt's discretion—was that a discretion to be exercised in parliament as a member of that House?—Undoubtedly so, Sir.

The Right Honourable *William Pitt*,—(First Lord of the Treasury, and Chancellor of the Exchequer)—sworn.—Examined by Mr. *Tooke*.

I beg Mr. Pitt to say whether that is his hand-writing?—[showing Mr. Pitt a letter.] It is.

Lord Chief Justice *Eyre*.—You must state what it is.

Mr. *Tooke*.—It relates to the importance of a parliamentary reform.

Lord Chief Justice *Eyre*.—How is that connected with your case?

Mr. *Tooke*.—In the same way as the duke of Richmond's letter, which your lordship admitted, that was introduced as a justification to Mr. Hardy, and those persons who pursued his plan, and I introduce this as a justification for myself.

Lord Chief Justice *Eyre*.—Observe, Mr. Hardy introduced the duke of Richmond's plan, by showing that they had professed to follow, and had followed it—if you show that you adopted or followed any particular plan, supported by Mr. Pitt, then you make that evidence upon the same principle—You cannot introduce it in the manner you now propose.

Mr. *Tooke*.—Mr. Fox, in his evidence, has proved a meeting at the Thatched-house tavern, where I attended; and he has proved that I supported, at that place, the thanks of that meeting to Mr. Pitt, for the motion that he had made.

Lord Chief Justice *Eyre*.—And do you state this to be that specific motion?

Mr. *Tooke*.—That specific motion, which, at any time, regulated my conduct.

Lord Chief Justice *Eyre*.—If it be the specific motion Mr. Fox alluded to, you may properly read it.

Mr. *Tooke*.—This is the whole of the plan which I ever pursued; this is recommended by Mr. Pitt; I thought it essentially necessary to the independence of parliament, and the liberty of the people: I never was a favourer of any particular plan; the whole of my efforts have been directed to reform; and what I am brought here for is, the having been friendly to any sort of reform that should alter the present situation of the representation in the House of Commons, thinking none could be for the worse; not having been a favourer of any particular plan more than of the plan of this gentleman, which they cannot say I followed, because I was in it before he was born; he, in a high situation, I followed in his steps, having always done as that right hon. gentleman has done; assuring the committee that my exertions should never be wanting in support of a measure, which I agreed with them in thinking essentially necessary to the independence of parliament, and the liberty of the people.

Lord Chief Justice *Eyre*.—I have stated, that as to any plan of a particular gentleman upon the subject of a reform of parliament, or any other subject, unless you connect, by evidence, your own conduct with it, that plan is not admissible evidence.

Mr. *Tooke*.—This is no plan.

Lord Chief Justice *Eyre*.—Whatever it be, any sentiment expressed, by a particular gentleman, is nothing, unless you adopt it, and make it your own in your evidence. I told you that, in the case of Hardy, they offered in evidence that they had acted upon the duke of Richmond's plan; in order then to see what they acted upon, it was necessary to look at the duke's plan; if you can preparatory to reading this paper, show that you acted upon this paper, or can, in any other way connect your conduct with this paper, then it will be evidence.

Mr. *Tooke*.—I conceive I have proved that, both by the duke of Richmond and major Cartwright—I take it, I have proved, that I acted precisely upon the plan of the right hon. gentleman. I say the reason why he pledged his exertions, as I have always done mine, is, that it is essentially necessary to the independence of parliament, and the liberty of the people.

Lord Chief Justice *Eyre*.—If it were your own plan, and Mr. Pitt, or any other gentleman, had adopted your plan, that would not make it evidence; the only way in which it could have been made evidence was by Mr. Fox's evidence. Now the way in which I thought you had endeavoured to make it evidence was, that there was a meeting, and you proposed to thank Mr. Pitt for the specific plan he proposed in the House of Commons; if this is that specific plan, it would be admissible.

Mr. *Erskine*.—Never having seen the letter my client holds in his hand, it was, for every reason, better he should take this part of the examination upon himself; but, I think, it is not attended to by the Court what Mr. Tooke insists upon, and how he conceives he is in a condition to read this letter. If I attended properly to the duke of Richmond's examination, his grace proved that there was a meeting there—whether a convention, or what it was signifies nothing—there was a meeting of gentlemen of great distinction, undoubtedly, at the Thatched-house tavern;

and many of those persons were very desirous of adopting the plan his grace had been the espouser of, namely, universal representation; that it was proposed that those persons should give up insisting upon that specific plan of reform, and should rather trust it to the discretion and integrity of the right hon. gentleman, whose name was mentioned, and who is now sworn as a witness. Mr. Horne Tooke (by your lordship's assistance, showing him the fallacy of the examination, unless it came to that point) was to fix the time—whether there was, at that time, any specific proposition of reform by Mr. Pitt; and it came out by a conclusion, which amounts to a mathematical demonstration, that that must have been so; for the duke of Richmond said he never had been at any public meeting with Mr. Horne Tooke and Mr. Pitt, subsequent to the time when he did make the proposition.

Lord Chief Justice *Eyre*.—I have put a mark against the whole of that evidence in my notes—that it amounts to nothing, because Mr. Tooke has not connected any act of his with the duke of Richmond's examination.

Mr. *Erskine*.—That is what I am just going to do. Your lordship puts a mark upon the evidence, that as yet that connexion has not been established; but your lordship does not put a mark upon it, that his grace has not sworn what I am stating, namely, that he had never been at a public meeting with Mr. Tooke and Mr. Pitt, subsequent to that time; it, consequently, must have been before Mr. Pitt moved any specific resolution, that what passed between Mr. Horne Tooke, and the duke of Richmond, did pass.

Lord Chief Justice *Eyre*.—The objection is, that nothing passed between Mr. Tooke and the duke of Richmond. The duke recommended, at that meeting at which Mr. Tooke was present, that every man should give up his sentiments, leaving it to the honour and discretion of Mr. Pitt what plan to pursue, in order to obtain a reform in parliament, upon which nothing was done by Mr. Tooke, one way or other.

Mr. *Erskine*.—To which Mr. Tooke assented.

Lord Chief Justice *Eyre*.—That was not proved.

Mr. *Erskine*.—I understood it was taken for granted that he assented to that.

Lord Chief Justice *Eyre (to the duke of Richmond*.—Does your grace recollect whether, when you proposed that every person should give up his own particular opinion, and be disposed to submit to a partial reform, proposed by Mr. Pitt, what part was taken by Mr. Horne Tooke upon that occasion?

Mr. *Tooke*.—I beg his grace to say whether there was any dissenting voice—was it agreed to by the meeting?

Duke of *Richmond*.—I think so.

Mr. *Erskine*.—I submit to the judgment of the Court, that Mr. Horne Tooke is now in a condition to have this letter read, not knowing what the contents of the letter are, or how they will particularly bear upon the case; for the reason given, not having heard it, I do not know.

Lord Chief Justice *Eyre*.—Whom is the letter to?

Mr. *Tooke*.—It is a letter written by Mr. Pitt, upon the subject of parliamentary reform.

Lord Chief Justice *Eyre*.—To whom?

Mr. *Tooke*.—I do not know that; but Mr. Pitt declares it to be his hand-writing, though not seized by the secretary of state. I beg your lordship to consider that things found in my hand-writing, without address or signature have been read; and this is in Mr. Pitt's hand-writing, a much greater hand than mine.

Lord Chief Justice *Eyre*.—That does not make it evidence; he will be to give evidence, of any fact contained in that letter, in his own person, using his letter only as something to refresh his memory.

Mr. *Tooke*.—Then I beg to give it him to refresh his memory.

Lord Chief Justice *Eyre*.—If you can connect this letter with the proceeding at the Thatched-house tavern, then, upon the ground we have gone upon before, I can admit the letter to be read, otherwise I cannot.

Mr. *Erskine*.—I conceived it, in my argument, to be a letter to Mr. Tooke.

Mr. *Tooke*.—I beg Mr. Pitt to say, if he can recollect, to whom this letter was sent?

Mr. *Pitt*.—I am not able to recollect the name and the person; I can only judge from the contents of the letter, what description of person it might have been directed to, probably to some person who acted as a chairman of a Westminster committee; because I observe it is taking notice of my not having been at home when the person to whom the letter was addressed, and the other gentlemen from the Westminster committee, did me the honour to call—At this distance of time, really I have no recollection who the individual was.

Have you any recollection of meeting me at the Thatched-house tavern, in a convention of delegates from different counties?

Mr. *Pitt*.—To what time does that question refer?

Mr. *Tooke*.—The middle of May, 1782, or thereabouts?—I recollect meeting a number of persons at the Thatched-house tavern some time subsequent to the first motion which I made in the House of Commons in relation to parliamentary reform, and which must, I think, have been about the middle of the month of May, 1782.

Do you recollect, what his grace the duke of Richmond recollects, that a proposal was made—I should first say, that it was of little consequence that you should have met me there—but do you recollect meeting lord Saint John there, or Mr. Saint John?—I

think Mr. Saint John was present, but I am not certain.

That, perhaps, may bring to your recollection that I was present—it is not worth while to attempt that—but by mentioning some conversation that passed at the time that made you laugh, I might possibly call it to your memory?—I cannot say who was present, but I should rather state from recollection that Mr. Horne Tooke was present.

Do you recollect, at that meeting, recommending to those who were there met, and to me if I was there among them, to endeavour to obtain in the course of the summer the sense of the people throughout England, in their different parishes, or smaller districts, in order to lay a foundation for future application to parliament with effect?—I have no particular recollection of recommending such a measure; but my general recollection is, that it was the sense of that meeting that means should be taken during the summer to recommend petitions to parliament, in the next session, with a view to a reform.

Mr. *Tooke.*—I suppose I may now have that letter read.

Lord Chief Justice *Eyre.*—No you are not at all forwarded for reading that letter.

Mr. *Tooke.*—Then I hope I may have it back again.

Lord Chief Justice *Eyre.*—Certainly.

Mr. *Tooke.*—I did intend to have asked the right honourable gentleman many other questions, but certainly the laugh of the Court prevents me from being serious; therefore I will ask him no more.

The Right Honourable *William Pitt* cross-examined by Mr. *Attorney General.*

Was there any thing passed at that meeting about using measures to bring about a convention of the people by delegates from affiliated societies?

Mr. *Pitt.*—Two meetings have been spoken of in the course of the examination I have heard; I wish to know, for precision, which meeting the question refers to?

To the meeting in May, 1782.

Mr. *Pitt.*—The meeting subsequent to the motion made in parliament?

Mr. *Attorney General.*—I do not know that.—You stated that Mr. Tooke was present at a meeting some time in May, 1782; was there any purpose in that meeting to bring about a convention of the people by delegates from affiliated societies?—There certainly was never any such idea stated by any man in my presence.

Mr. *Tooke.*—Were we not a convention—instead of meeting for the purpose of bringing about a convention? What was that meeting but a convention of delegates from different towns and counties throughout England?—Was it, or was it not, a meeting or convention of delegates, appointed by the different committees of different counties and great towns in England?—I have not an exact recollection at this time how that meeting was composed, but I did not consider it as a meeting of persons who were authorized to act for any but for themselves.

Mr. *Tooke.*—Then I will not trouble you with any other questions, because this question I shall have answered by many other persons, and it is not fit I should vex your recollection.—I will ask merely one question—I am sorry to trouble you with it—perhaps, sir, you may be able to recollect that the petition was objected to in the House of Commons upon that very ground, that it came from persons in a delegated capacity?—No petition came from the meeting to which I allude.

But that meeting was the ground, cause, and beginning of those petitions which afterwards followed?

Lord Chief Justice *Eyre.*—I understand your question to be, whether any petitions to parliament were objected to in parliament as coming from delegated persons?

Mr. *Pitt.*—I have no recollection in my mind of any petitions subsequent to that meeting that were objected to upon the ground stated; at this distance of time I cannot pretend to speak positively to that circumstance.

Mr. *Tooke.*—Your lordship will see that I avoid asking these questions from the right honourable gentleman, not thinking it fair that he should be called upon at this distance of time for a recollection of such minute particulars as these, though I am.

Lord Chief Justice *Eyre.*—And if you can prove it by other evidence it certainly will be regular to do it.

Mr. *Attorney General.*—I mean to ask whether the persons who composed that meeting attended as delegates of the people; whether they were to act for themselves, or merely for the persons who sent them?

Lord Chief Justice *Eyre.*—That question was answered.

Mr. *Pitt.*—I understood those persons as expressing their own sentiments, not binding others.

Lord Chief Justice *Eyre.*—Nor deputed by others?—I do not know but that some of those individuals might have been deputed for the purpose of promoting the object of an application to parliament; I cannot state exactly how that meeting was composed.*

Richard Brinsley Sheridan, esq. sworn.—Examined by Mr. *Erskine.*

Do you know Mr. Horne Tooke?—Yes.

Have you ever seen him at any meeting held for the purpose of obtaining a parliamentary reform?—I have met him, certainly, at several meetings held for the purpose of obtaining a parliamentary reform.

* See what was said by Mr. Pitt at the conclusion of Mr. Sheridan's examination, *infrà*, p. 394.

Be so good as to state to the Court what those meetings were, or any one of those meetings?—I met him in different associations, I think in the year 1780; and I rather think—but really I am not quite certain—in a convention or meeting to which different delegates from various parts of the kingdom were sent, who were deputed to consider of the best means of promoting the object of parliamentary reform.—Delegates from counties, towns, and different parts, to promote the object of parliamentary reform, and to act for those who deputed them.

Perhaps you know this business more fully than it has been hitherto stated, from having been yourself a delegate from some district?—I was a delegate for Westminster, with, I think, five or six other gentlemen.

What was the nature of your deputation?—The purpose of our appointment was, to act in concert with the other deputies or delegates; to correspond with other societies, associated to promote the object of parliamentary reform; and, certainly, by all legal and constitutional means, to interest and engage the public mind in that object, with an expectation, certainly, that the influence of public opinion would so far operate upon the House of Commons as that we might ultimately gain our object; without which influence or interposition on the part of the people, we certainly had no hopes from the House of Commons.

Did the inhabitants of Westminster, such as were friendly to reform, leave it to the discretion of their delegates how that object should be best accomplished in a legal and constitutional mode?—In my opinion they confided the means to them entirely.

Was it not a thing as notorious as that I am now speaking to you, that these delegates did act for other societies, and not merely for themselves?—I think we never signed any resolutions, or put forth any paper, in which we did not state ourselves to be delegates acting for other people.

Do you think it is possible that a man could belong to that society, without seeing that those people with whom he associated were persons of that character and description. Is it possible that a person could belong to such an association as you are describing, composed of various persons, in delegated characters, and signing their names as delegates, without knowing that they were acting for others?—Certainly no person could belong to that sort of society or convention that I am speaking of without knowing it, because he could not have attended it without being himself appointed by some other body of people.

You say you have occasionally seen Mr. Horne Tooke at these meetings, which had for their object, by the extending the influence of the public opinion, to interest and engage the public mind, and thereby procure a reform from parliament; did Mr. Horne Tooke dissent from or assent to the propositions that were made at these meetings?—I do not recollect any instance of Mr. Horne Tooke's dissenting from the general plan upon which we were all acting and for which we were associated.

Did Mr. Tooke come there as a critic upon your proceedings, or to assist and aid in the accomplishment of your object?—I conceive Mr. Tooke came with the same purpose and object which we all did.

Lord Chief Justice *Eyre*.—Was he a delegate?—I do not exactly recollect; I imagine at some of those meetings Mr. Tooke must have been a delegate.

Mr. *Attorney General*.—What number might there be of delegates?—At one time a very considerable number, from a great number of the most populous and respectable counties and towns, Yorkshire, York, Devonshire, and a number of members of parliament were there.

Mr. *Erskine*.—Were you delegated to draw up a petition, to consider the language in which a petition should be drawn up, or delegated generally to consider how, by legal and constitutional means, reform should be obtained?—Certainly we considered ourselves as delegated generally to pursue the best and the strongest legal means to obtain our object.

Was the act of petitioning, the time when, the mode, and to whom the petition should be addressed, left to the delegates?—Certainly we were very much of opinion that petitions (except for the form of the thing, and the appearance of it), till they came generally from the whole body of the people to the House of Commons were perfectly frivolous and useless.

You were of that opinion, with the duke of Richmond?—I was of that opinion with the duke of Richmond, certainly.

I understand you associated yourselves together as delegates in order to collect the public sentiment upon that head?—Undoubtedly; and expecting that, at least, we should have delegates or deputies meet in a much larger meeting or convention from all parts of the kingdom.

Now, by collecting the public opinion so as to make it operate upon the House of Commons, was it ever intended that it should operate upon the House of Commons by violence and force, and rebellion?—Certainly not by any thing like violence or force; but we certainly did expect to create a degree of awe in the House of Commons of us and our proceedings—Not a wrong or improper awe, but that sort of awe and respect which we conceived the House of Commons were bound to pay, and must pay, to the just sentiments of the people at large, when collected and expressed.

As every thing must have a beginning and a progress, this was to go on progressively from small numbers to greater numbers, and

from thence to greater, until you could surround parliament with the voice of the people?—Certainly that was our purpose and hope.

Richard Brinsley Sheridan, esq.—Examined by Mr. *Tooke*.

Do you recollect the 14th of July, 1790, the first meeting which was called as an anniversary of the French Revolution?—Do you recollect meeting on that day?—I recollect perfectly attending an anniversary dinner at the Crown and Anchor, to celebrate either the taking the Bastile or the acceptance of the constitution: in short, to celebrate the establishment of the Revolution in France.

Do you recollect who took the chair?—Lord Stanhope.

Do you recollect, at that meeting, lord Stanhope being in the chair, that you made a motion in these words, or to this effect—"That this meeting does most cordially rejoice in the establishment and confirmation of liberty in France; and that it beholds with peculiar satisfaction the sentiments of amity and good-will which appear to pervade the people of that country towards this kingdom, especially at a time when it is the manifest interest of both states that nothing should interrupt the harmony that at present subsists between them, and which is so essential for the freedom and happiness not only of both nations but of all mankind."

I recollect moving the resolution myself; and I imagine (I cannot be positive, having no copy of it, and not having that circumstance much called to my recollection, till I heard it mentioned by Mr. Erskine) but I conceive that is, word for word, the resolution that I wrote and moved.

Do you recollect that I, being then and there present, made no objection to the motion, but expressed a strong desire that some qualifying expression might be added unto this general motion of approbation of the French Revolution—Did I express my full approbation of that motion; and did I, or did I not, at that time, mention the danger of misinterpretation or misapprehension of others who were not friendly to the liberty of France?—I should state that that which was moved by me, was not hastily drawn up at the time, but I went there with a great body of respectable gentlemen, mostly belonging to the Whig Club, upon an invitation from the stewards the day before, and upon full consideration with respect to the propriety of attending this meeting, at which lord Stanhope was advertised to be in the chair, I stated that some intemperate resolution might be moved in which I did not choose to be implicated; and, therefore, it was proposed that we should draw up a resolution, this was done by me, and the resolution, just read, was then drawn up, it was moved by me soon after dinner, I think upon my health being drank, and it was received with very great approbation.

Lord Chief Justice *Eyre*.—The point is, how Mr. Horne Tooke conducted himself?—I remember perfectly the circumstance that Mr. Horne Tooke did not directly object to the resolution, but just as it was going to be put he rose, I think he first of all proposed an amendment to it. I remember very distinctly his stating that an unqualified approbation of the French Revolution, in the terms in which I had moved it, might produce an ill effect out of doors; that it might induce a disposition to revolution in this country, or if it did not produce that effect, at least, it was capable of being misrepresented so as to be stated to have that object and intention—I think, I recollect perfectly Mr. Tooke's adverting in his speech to the circumstance of all the gentlemen at the meeting, having national cockades in their hats, which we all had—he argued the necessity of qualifying our approbation of the French Revolution, and the establishment of liberty in France, with a declaration of our attachment to the principles of our own constitution. I remember, perfectly, his speaking in a figurative manner and describing the former government of France, as a vessel so foul and decayed, that repair merely could not save it from destruction—I cannot be positive to the words, I am positive to the purport of those words, I am going to state now—I am quite positive to the very terms, that in contrasting our state he said, thank God, the main timbers of our constitution are sound, having before observed that some reform were essentially necessary. I remember the conversation, or debate, the more accurately from the circumstance of those sentiments of Mr. Horne Tooke having been received by some violent people, or by people who mistook his intention, with great disapprobation, and with very rude interruption, inasmuch that, I believe, lord Stanhope, the chairman, interfered to preserve order.

Mr. *Attorney-General*.—That it might produce a revolution did you say?

Lord Chief Justice *Eyre*.—A disposition to revolution.

Mr. *Tooke*.—Is that the only time in which you remember me, in different meetings, to have been received with great disapprobation, or have you frequently, or more than once known me to be received by very large companies, with very great disapprobation?—In very many public meetings I have had the misfortune to differ with, and to oppose Mr. Tooke—I have frequently seen him received with very considerable marks of disapprobation, but I never saw them much affect him

Mr. *Tooke*.—My question, upon that head, was to show that I was likely to have very troublesome subjects, after I had deposed our lord the king, for I was constantly received with very great disapprobation.

Do you recollect, whether these words, or the substance, was the motion which I made at this meeting, after the other motion had

been carried: "We feel equal satisfaction that the subjects of England, by the virtuous exertions of their ancestors, have not so arduous a task to perform as the French have had; but have only to maintain and improve the constitution, which their ancestors have transmitted to them?"—I recollect Mr. Tooke proposed either precisely those words, or words to that effect, as an amendment. I opposed the amendment on the ground generally, that we met there, as the advertisement had published, to give our opinion, and express our approbation of the establishment of liberty in France, and the destruction of the old despotic government, which we conceived to have been the constant enemy of this country, therefore, I objected to any amendment being grafted upon that, because there might be persons in the company who might not agree, that there was any reform necessary in this country, and it was introducing debateable matter, which might disturb the harmony of the company—I think Mr. Tooke withdrew the amendment afterwards, and moved it as a distinct proposition, and having overcome the opposition and tumult by coolness and perseverance, it was afterwards adopted as unanimously as my resolution had been before.

Mr. *Tooke.*—Mr. Sheridan stated, that his motion was not a sudden one, but well deliberated upon before for the purpose of moderation. I beg the attorney-general will observe, that I moderated the moderator.

Richard Brinsley Sheridan, esq.—Cross-examined by Mr. *Solicitor General.*

You stated, I think, that it was in the year 1790, when this meeting was held to celebrate the French Revolution?—In the year 1790.

Do you recollect at what time of the year it was?—In the Summer, I think.

The 14th of July?—Yes.

Do you recollect what name, what title, the people there assumed?—I do not, I should think the title was simply—"Friends to the establishment of the liberty of France."

Is it—"The Friends of liberty in London, assembled the 14th of July, 1790, to celebrate the French Revolution?"—It might be.

As the friends of liberty you met in London to celebrate the French Revolution?—Yes.

Do you recollect a meeting of the same sort in 1791?—I recollect there was a similar meeting called.

Were you present at that second meeting?—I was not present, but I was not absent from any alteration in my opinion.

You do not know what passed at that meeting, on the 14th of July 1791?—I know what passed at a meeting I was present at, not at a meeting I was not present at.

You said, I think, that Mr. Tooke's proposition was, to qualify the address you proposed, and that what he said upon the subject was received, by some violent people, with great disapprobation?—I imagine it must be from some violent people.

What was the nature of the disapprobation signified?—A great deal of hissing, and interruption, every mark of disapprobation, which is common in public meetings of that sort.

A disapprobation of the amendment that was proposed, or of any thing that was said by Mr. Tooke?—Certainly, the disapprobation proceeded from persons who appeared to differ from Mr. Tooke, and to condemn the moderation of his principles.

You spoke of a meeting of persons in the year 1780, who were described as delegates—Do you recollect at what time of the year that meeting was?—I think it must have been in the year 1780, but I cannot be positive.

Were there more than one such meeting?—First of all there was the Westminster association, a committee appointed by the Westminster association—then there was a meeting called the Quintuple Alliance, a general meeting, which had for its more immediate object the promoting a plan of economical reform, but which avowedly aimed and pointed at a plan of parliamentary reform—in that meeting we sat for a considerable time in Guildhall, in the city of London, by permission of the lord mayor, and court of Aldermen, attended by their officers.

You said that the delegates, at this meeting, were persons who professed to act for those who deputed them—did they propose to act for any persons who did not depute them?—Certainly not.

In the name, or on behalf of any persons who did not depute them?—I should have thought that a very absurd and extraordinary proposition, and having no recollection of any such, I suppose nobody absurd enough to propose any such thing.

Then those that were in the character of delegates, you understood, professed to act for, and in the name of those by whom they were deputed as delegates?—Certainly.

Were there any persons who attended those meetings, that were not in the character of delegates?—I remember at a meeting at the King's Arms, in Westminster, a number of persons attending, who, I should conceive, were not delegates; I am not confident, but I remember our examining the duke of Portland, with respect to words spoken by lord Hillsborough* in the House of Lords, throwing the imputation of faction and sedition upon these conventions and delegations.—I should suppose the duke of Portland was introduced for the purpose of giving this information, as to the words to which we examined him, but that he was not a delegate.

Were you in parliament in the year 1780?—I was not in parliament; but my having been in parliament certainly has not altered

* See New Parl. Hist. Vol. 20, p. 1352.

my conviction of the necessity of a reform —I came into parliament in 1780, but I was not in parliament when I first belonged to those associations.

Were you at any meeting of the same sort, in the year 1782?—If there were any meetings of the same sort, I am positive I must have attended them, for I never have altered my principles, nor avoided any opportunity of promoting the object I then professed to support.

You do not recollect being present at any meeting in 1782?—I do not exactly recollect the time.

Richard Brinsley Sheridan, esq. re-examined by Mr. *Tooke*.

Mr. *Tooke*.—It is necessary for me to set right what appears to be imagined by the learned counsel, by some question that he asked—was that anniversary meeting on the French Revolution, before or after the Westminster election, in the year 1790?—I think that must have been after the election.

You said a great number of the Whig Club agreed to attend—were there many of that club attending that meeting?—A great number.

Do you suppose that the particular personal violence against me, might not arise from the gentlemen of the Whig Club, who had unanimously been supporting Mr. Fox, in opposition to me, at that Westminster election?—There certainly was, in the party I was in, no cordial good-will towards Mr. Tooke.

Mr. *Tooke*.—The opposition was personal, and not to the motion; for afterwards, when they came to hear the moderate language I held, they unanimously adopted my motion.

Lord Chief Justice *Eyre*.—When does Mr. Sheridan understand the first meeting of delegates to have been held, and where?—There was a meeting of delegates held, I think, in an auction-room somewhere near King-street; but as to the time I cannot be positive; I rather think I did not attend; I was either unwell, or something prevented me—I remember Mr. Thomas Grenville was a delegate for the city of Westminster.

Lord Chief Justice *Eyre*.—Do you happen to know how many met, and for how many places they were delegated?—I am sorry I have not refreshed my memory upon that subject, but the proceedings are all collected and printed.

Lord Chief Justice *Eyre*.—Do you recollect where the next meeting was?—I really do not; I rather think the next was in Guildhall.

Lord Chief Justice *Eyre*.—Was that a meeting of the same delegates from the same places, or was it a meeting of other persons?—I am pretty sure of other persons.

Lord Chief Justice *Eyre*.—Of persons that were known by the name of the Quintuple Alliance?—Certainly not—I am pretty positive not—I am sure not.

Lord Chief Justice *Eyre*.—Do you think it was a meeting of other delegates?—I knew very few of the gentlemen; they were gentlemen from different parts of England, who produced their powers.

Lord Chief Justice *Eyre*.—What was the next meeting you recollect?—I do not know whether the meetings were very formally separated, or grew thin, and fell off without any formal breaking up.

Lord Chief Justice *Eyre*.—Do you recollect any meeting of delegates at any other places?—I forget the nature of the meeting at the Thatched-house; nor am I sure that I was at it? I rather think I was not: I do not think that could be called a meeting of delegates, though there were certainly persons there that were not members of parliament. At the duke of Richmond's house in Privy Gardens, I remember proposing that Mr. Pitt should be requested to move a reform of parliament in the House of Commons.

Lord Chief Justice *Eyre*.—That is all that you recollect particularly of the meetings?—Yes.

Mr. *Attorney General*.—My learned friend is calling one witness to contradict another.

Mr. *Erskine*.—I am not calling one witness to contradict another.

Lord Chief Justice *Eyre*.—There was some question that tended that way undoubtedly.

Mr. *Pitt*.—I understood I was asked only to the meeting at the Thatched-house; I also recollect being present at a meeting of the duke of Richmond's.

Lord Chief Justice *Eyre*.—I understood you to give no account of the meeting at the duke of Richmond's?

Mr. *Pitt*.—That being mentioned, I wish not to correct my evidence, for I have nothing to correct in it; but to add, that there was a meeting previous to my making the motion for a parliamentary reform, not at the Thatched-house, but at the duke of Richmond's; and at which were present a considerable number, I believe, of members of parliament, and some persons who were not members of parliament, and who, I conceive, had been delegated from different county meetings, and several cities and towns.

The Right Honourable *Charles Earl Stanhope*, sworn.—Examined by Mr. *Erskine*.

Your lordship was in the chair at the meeting mentioned by Mr. Sheridan?—I perfectly recollect having been in the chair at a public meeting, held on the 14th day of July, in the year 1790, one year after the Bastile had been pulled down, and we met to celebrate that glorious event. *

* See "Memoirs of the Life of John Horne "Tooke; by Alexander Stephens, esq." Vol. 2, p. 112.

What number of persons attended that meeting, and of what descriptions?—Some hundreds of a very respectable description.

Does your lordship remember the gentleman at the bar being present?—Most perfectly. Mr. Sheridan was there.

Does your lordship remember the motion made by Mr. Sheridan—the resolution proposed by him?—To the best of my recollection the health of Mr. Sheridan was drank; something of that sort introduced it; and he made his motion, which was, as far as I could hear, as it was read to this Court this day.

Does your lordship remember what Mr. Tooke said previous to his moving that resolution, which was also read?—Mr. Sheridan had, if I recollect, thanked them, and expressed his pleasure, when they drank his health, of the approbation———

Lord Chief Justice *Eyre*.—Your lordship is asked respecting Mr. Tooke?—Mr. Tooke having spoken respecting the approbation of Mr. Sheridan, and the pleasure he had in the approbation of the gentlemen present, and the public, he said something to this effect: that he had been in the habit of flattering women, but he did not like to flatter men. He was hissed for this, and, I believe, he was the more hissed, because it was a little after the Westminster election. After that Mr. Tooke went on, and he did not speak so respectfully of the resolution moved by Mr. Sheridan, though he did not oppose it, as, I confess, I wished: but he stated the danger of its being misunderstood, and misconceived by the public, and advised something to be added; I think he proposed as an amendment, that something should be added about our own constitution; he said something about ship's timbers; and, I think, I recollect an expression that he used, which was, that all our timbers were sound: he was very much hissed and hooted, indeed, for it; as far as I could recollect they conceived he was talking about venal boroughs; but I, who knew that he was a friend to a reform of parliament, did not understand him in that sense; I understood him to mean the main timbers of the constitution; at the same time I did not much like the expression, because it was liable to be so misunderstood. It was with some difficulty that I could procure Mr. Tooke a hearing, for they seemed very angry at him; and I do not know whether I could have procured him a very patient hearing, if I had not done something to this effect; I expostulated with them on the propriety of hearing him; I do not remember my words, but I said to this effect, that they might hear him first, and hiss him afterwards; and then they did hear him. I think there was some little debate about Mr. Tooke's motion; and, at last—not wishing to mix a sober approbation of that event in France, which we expressed by the resolution we hoped would produce peace between the two countries, with any thing relative to our home politics—the proposal of Mr. Tooke was made as a separate motion; and the substance of that separate motion was, to the best of my memory and recollection, that we did not want a revolution in this country, but an amendment, in some respects; and the resolution, was, as far as I can recollect, as stated this day.

At that time, from the date, the company all knew that the constitution of 1789 was established in France?—There had been, properly speaking, the constitution of 1789; I cannot speak to what passed in France of my own knowledge; but there were two constitutions, according to my memory, one that was finished sometime, I believe, in the year 1789, and then that same was perfected, and was not finished till 1791. It was technically commonly then called the French constitution of 1789, 1790, and 1791.

Has your lordship any reason to believe, that the disapprobation, signified by part of the company, to Mr. Tooke, before they knew what he was about to propose, arose from a disposition in that company, as far as it was signified by them to introduce any thing like disorder or anarchy in this country?—As it appeared to me there were a number of gentlemen that, without any disrespect to them, you might technically call Foxites; Mr. Tooke, it is well known, stood against Mr. Fox for Westminster, and Mr. Tooke not being very civil to Mr. Sheridan, they hissed him.

Had you any reason to believe, from knowing the character and complexion of the persons present, that there were among them any persons who wished to subvert and destroy the government of this country?—I am perfectly persuaded, by the demeanour and conduct of the gentlemen there, and as far as I knew of them, that they had no such intention.

Your lordship at least knows your own intention?—Most certainly.

When did you cease to be a member of the House of Commons; I forget when you became earl Stanhope?—I was in the House of Lords at the time of this meeting.

But, in 1782, you were lord Mahon, if I recollect right?—Yes, and I was in 1785.

Was your lordship a member of the House of Commons, during the life of your father?—During the latter part of his life; I came into parliament, I think, at the general election, in the end of the year 1780.

Does your lordship remember attending any, and what meetings, upon the subject of parliamentary reform?—Oh, I attended a great many of them.

Be so good as describe those meetings at which you saw Mr. Horne Tooke—what were the nature and description of those meetings?

Lord Chief Justice *Eyre*.—First of all, did you see Mr. Horne Tooke at any of these

meetings?—I am perfectly certain I did; I was at the meeting that was held at the duke of Richmond's house.

Lord Chief Justice *Eyre.*—Was Mr. Horne Tooke there?—I believe he was, but I cannot be certain—I was there.

Mr. *Attorney General.*—That is nothing at all to the purpose; your lordship ought to know the rules of evidence better—be so good as inform us of any thing that passed at the meetings where Mr. Horne Tooke was?—I have some recollection of it—but I cannot be certain whether he was there or not.

Mr. *Erskine.*—Be so good as to go to any meeting held, at which you saw Mr. Tooke?—I am pretty certain that Mr. Horne Tooke was at the meeting that was held at the Thatched-house tavern, in the year 1782; it was a short time after Mr. Pitt's first motion, for Mr. Pitt made three motions—Mr. Pitt's first motion for parliamentary reform had been negatived by the House of Commons, where it was moved—the first motion of Mr. Pitt was a kind of general motion to go into a committee*—his second was more particular;† and his third motion, which was in 1785,‡ I think was, to advance a million sterling, for the purpose of buying up boroughs; and it was after Mr. Pitt's first motion was rejected, that this meeting was at the Thatched-house; and Mr. Pitt was there, Mr. Wyvill was there, the duke of Richmond was there, and I dare say I could recollect others.

If I understand you right, at the time of the meeting your lordship is now about to speak to, Mr. Pitt had made no specific proposition, but only that general proposition you referred to?—The motion that he made will best appear by the journal of the House of Commons.

To be sure it will, but we do not go to that precision—be so good as state what passed at the meeting to which you now advert, at which Mr. Horne Tooke was present—I understand that it is not yet settled, my lord, whether your lordship has sworn that Mr. Tooke attended at the meeting at the Thatched-house tavern?—I remember perfectly his attending; I am positive of it in 1785, at the meeting at the Thatched-house tavern, but I am not equally sure that he did so attend in the year 1782.

Do you believe he did?—I believe he did.

Lord Chief Justice *Eyre.*—The duke of Richmond said Mr. Tooke was there at that meeting?—I believe the fact to be so, but I cannot charge my memory with it positively; but I am sure the duke was there, and I am sure Mr. Pitt was there, and I am sure Mr. Wyvill was there.

Mr. *Erskine.*—And I am sure the duke of Richmond has sworn Mr. Tooke was there. Be so good as tell us what was done at that meeting, and what part did Mr. Horne Tooke take in the business of that meeting?—I cannot charge my memory with the part he took, because I am not positive that he was there; but I verily think so—but, as to the general business of the meeting, to the best of my recollection it was a motion that, I believe will be best found in Mr. Wyvill's collection—a general motion in favour of a reform. I do not know whether there were not thanks to Mr. Pitt, or something to that effect; and there was a recommendation to the people, in the second resolution, to meet during the Summer, for the purpose of enforcing, I understood,—but I forget the words; but that is the purport—by legal means a parliamentary reform—in short, to encourage the people to support it by petitions, and so forth.

Does your lordship recollect being present at the meeting in 1785?—I very perfectly recollect I was there, and I am sure Mr. Tooke and lord Surrey* were; the present duke of Norfolk was in the chair; Mr. Wyvill, Mr. Fox, Mr. John Jebb, and the late alderman Townsend were there; and I think alderman Sawbridge and Mr. Wilberforce were there.

What was this meeting? how constituted?—The person who caused it to be brought together was Mr. Wyvill; Mr. Wyvill was a warm friend of Mr. Pitt's last plan for a parliamentary reform, which was rejected in the year 1785; I mean that which proposed the million to be given to buy the boroughs. Mr. Wyvill had written an account of Mr. Pitt's plan, which he showed to me—I had suggested some trifling alterations, which he I understand, showed to Mr. Pitt himself, and that thing, so prepared by Mr. Wyvill, was read at that meeting.†

Where Mr. Tooke was present?—Yes, it was an exact copy of Mr. Pitt's last plan, which has been printed; and Mr. Wyvill, to the best of my memory, moved a specific approbation of that plan of Mr. Pitt's; that it would be a great improvement in the constitution; some persons objected to it, among others I recollect, very well, that Mr. Charles Fox objected to it: Mr. Tooke was for it, and Mr. Tooke debated it with Mr. Fox.

Does your lordship recollect how that meeting was instituted; did you each come in your own persons, for yourselves, or represent any other bodies of men, and what?—I have been at meetings of delegates, in the years

* Mr. Pitt's first motion was made on May 7th, 1782. See the debate to which it gave rise, in the New Parliamentary History Vol. 22, p. 1416.

† Mr. Pitt's second motion for parliamentary reform was made on May 7th, 1783. See New Parl. Hist. Vol. 23, p. 827.

‡ Mr. Pitt's third motion for parliamentary reform was brought forward on April 18th, 1785. See the New Parl. Hist. Vol. 25, p. 432.

‡

* In 1786 [eleventh] duke of Norfolk.

† See the New Parl. Hist. Vol. 25, p. 445.

1780 and 1781, a convention of delegates; but at this meeting that I am now speaking of, we attended in our individual capacity.

Can you take upon yourself to say, distinctly, that Mr. Tooke did, unequivocally, assent to the distinct proposition so made by Mr. Pitt himself, which was rejected in the House of Commons?—The motion made by Mr. Wyvill was an approbation of Mr. Pitt's plan specifically, after the plan had been read from this paper—it was upon the holding up of hands, aye or no, upon that motion, that Mr. Tooke was for it, and debated for it

Have you ever had an opportunity of seeing Mr. Tooke at other times, independent of these public meetings that you are speaking of?—Yes, I have seen him at the public readings at Lisle-street, by Tessier.

Have you ever seen him at any other public meetings, or in private life?—No, I have never been in habits of intimacy with Mr. Tooke, in private life: and, as to other public meetings, I have seen so many people, and been at so many meetings, that I cannot precisely say.

Do you know whether Mr. Tooke has been at any of those meetings your lordship adverts to, where there were delegates in the year 1780?—I cannot be positive, 1780 and 1781 are two meetings.

The Right Honourable *Earl Stanhope*.—Cross examined by Mr. *Attorney General*.

I beg to ask your lordship only one question; all the transactions you have spoken of happened in or before the year 1785?—In or before the year 1785, except one—that in the year 1790, you know, was not before the year 1785.

Of course you know nothing that has happened since the year 1790?—I have not been asked that.

Then now you are asked, is there any thing you are to state relative to the questions that have been put to you by Mr. Erskine, subsequent to the year 1790?—I do not understand the question. I was asked whether I saw Mr. Tooke at the meetings in 1790, 1782, and 1785—I really do not understand the question.

I happened to be out of Court when you were examined; will you allow me to ask a question of fact; has your lordship, as yet, deposed to any fact since the year 1790?—I do not remember that I was asked to any thing since the year 1790.

Mr. *Attorney General*.—Then I do not ask you any question.

Mr. *Erskine*.—I understood your lordship to say, that subsequent to the year 1790, you have never seen Mr. Tooke at any meetings at all?

Lord Chief Justice *Eyre*.—He was not asked that question?—I cannot say that I have seen Mr. Tooke at any public meetings since.

Or in private?—No, I have never been in private habits with Mr. Tooke.

The Reverend *Christopher Wyvill*—sworn.—Examined by Mr. *Erskine*.

You have heard my lord Stanhope examined just now: do you recollect the meeting which his lordship alludes to, in the year 1785?—Perfectly.

By whom was that meeting called, and for what purpose?—It was called chiefly at my desire.

For what purpose?—With a view to obtain a resolution, by that meeting, expressing an approbation of the plan which had lately been proposed by Mr. Pitt to parliament, and rejected there, in hopes that that might unite the friends of parliamentary reform throughout the kingdom.

What did you expect from an union of the friends of parliamentary reform throughout the kingdom, if you accomplished it?—That they would apply again to parliament, and support the motion Mr. Pitt had made, which had been negatived.

What did you expect from their so uniting and supporting it, when it had been negatived before?—There had been a considerable degree of difference of opinion among the persons who promoted the reformation of parliament. Mr. Pitt proposed this specific plan which it was thought, if it had been approved by the people who met at the Thatched-house tavern, might put an end to that difference of opinion, and procure a united support to that plan.

But what effect did you expect from a united support of that plan, which the House had rejected?—A greater effect from the united support of the people, than from the disunited.

Do you recollect whether Mr. Horne Tooke the gentleman who has now the misfortune to be before you, attended at that meeting?—I do recollect it perfectly.

Do you know whether he was present when that approbation to Mr. Pitt's plan was proposed?—He was.

As I take for granted you never could expect to be placed here to answer the questions I am putting to you, I shall not ask whether you particularly recollect what Mr. Tooke said, but whether Mr. Pitt's proposition was universally approved, and a vote of thanks passed to Mr. Pitt?—There was no proposition made, as far as I recollect, to return thanks to Mr. Pitt; there was a proposition made to declare, that, in the opinion of the meeting, the reform proposed by Mr. Pitt would effect a substantial improvement of the constitution, that proposition was negatived by the meeting, and, therefore, it was to no purpose to propose thanks to Mr. Pitt.

It was negatived by the meeting?—By a majority of the meeting.

Do you know what part was taken by Mr. Tooke upon that occasion?—I perfectly recollect he spoke in defence of the proposition that I made at the meeting.

Then you made a proposition which, upon being debated, and put to the vote, was negatived?—The proposition I made at the meeting, and which was negatived, was, that if the reformation proposed by Mr. Pitt was carried into effect, it would be a substantial improvement of the constitution of Great Britain; those are not exactly the words of the resolution, but the substance of it.

And notwithstanding that proposition was negatived, Mr. Horne Tooke was for the affirmative of the proposition?—He took the affirmative of that proposition before it was negatived; some spoke in support of the proposition, others against it; there was a debate, but, I perfectly recollect Mr. Tooke spoke in support of the proposition.

Whether those who negatived Mr. Pitt's proposition negatived it upon the approbation of some other plan, inconsistent with Mr. Pitt's?—As far as I can recollect, nothing of that kind occurred.

Lord Chief Justice *Eyre.*—Was the question put upon the declaration?—I think not.

Lord Chief Justice *Eyre.*—How do you know that it was negatived?—A question was put upon the proposition which I made, and it was negatived but no other proposition was made.

Mr. *Erskine.*—And Mr. Tooke spoke in the affirmative, and was in the minority. We have learned, in the course of this cause, that there was a great number of meetings of different descriptions; had you, in the course of these meetings, an opportunity of seeing Mr. Tooke, at any other time?—I cannot with certainty recollect, but I do believe that Mr. Horne Tooke was present at the meeting held at the Thatched-house tavern, in the year 1782, which has been the subject of deposition already in this Court; I think he was, but I cannot take upon me positively to assert—it was held immediately after Mr. Pitt's first proposition on the subject of reform.

What was the object of that first meeting?—As I understood the object of that meeting was, to endeavour to animate the people of England to meet in their respective districts, to petition parliament for a reformation in the House of Commons.

Were there any propositions of that sort come to at that meeting?—The propositions come to at that meeting I cannot exactly recollect, though I made them myself; I recollect the substance only.

I only want the substance?—There was a proposition to excite the people to come forward to petition parliament, when they had negatived the right honourable gentleman's motion, that they thought it expedient to endeavour to animate the people to come forward to support the question, or support that reformation which Mr. Pitt had endeavoured to bring forward at that time.

I take for granted, at a meeting assembled for that purpose, that your proposition was carried?

Lord Chief Justice *Eyre.*—Do not argue it; ask the question.

Mr. *Erskine.*—Was it carried, or was it negatived?—Carried unanimously, I believe.

You say, to the best of your recollection, Mr. Tooke was at that meeting?—I believe he was, but I cannot be absolutely certain.

Were you acquainted with Mr. Tooke in private life?—I never saw Mr. Tooke, but once, at any private meeting.

Then you have not discoursed with him upon political subjects?—I have not.

The Reverend *Christopher Wyvill.*—Cross-examined by Mr. *Attorney General.*

I understood you first of all to say, that this was in the year 1785; am I correct in that fact?—You are.

I then understand you to say, that the object was, to animate the people of England to petition parliament.

Mr. *Erskine.*—That was in 1782.

Mr. *Attorney General.*—Then in 1782, or 1785, or both, or one or other of them, the object was, to animate the people to petition parliament?—That was the object of the meeting of 1782.

And the last transaction which you have spoken to was in the year 1785?—Yes.

Were the resolutions of this meeting reduced into writing?—They were.

All that you mean to depose to is to transactions that, whenever they begun, concluded in the year 1785?—Yes.

Mr. *Erskine.*—Should you know the resolution if you saw it?

Mr. *Attorney General.*—You have perhaps got the original book, in which these original resolutions were entered?—I have the original books of several deputed meetings, not of that meeting.

Mr. *Attorney General.*—I understand distinctly, that the last transaction you speak of was in the year 1785?—Yes.

John Macnamara, esq.—sworn.—Examined by Mr. *Gibbs.*

Do you remember the Constitutional Club in the year 1788, at the time of the king's illness?—I do recollect attending the club that year.

Lord Chief Justice *Eyre.*—What do you mean by the Constitutional Club?

Mr. *Gibbs.*—What club was that?—It was a club if I recollect rightly, established to secure the freedom of election for the city of Westminster, and the interest of the candidate we were supporting that year, my lord Hood.*

Where did your club meet?—I believe at the Thatched-house tavern.

Do you know Willis's Rooms, St James's?—The tavern itself not being sufficiently large

* See "Memoirs of John Horne Tooke" by Alexander Stephens, esq. Vol. 2. p. 70.

to contain the number that were expected to meet, and actually did meet, the rooms of Willis, who kept the Thatched-house tavern, were appropriated also to that purpose.

When was the club instituted?—I fancy it was instituted after the election of lord John Townsend, who had opposed the re-election of lord Hood about the month of June, 1788.

It was in that year, I believe, that his present majesty was afflicted by an illness which confined him?—It was in that year, I fancy, that the king was afflicted with that illness.

Do you remember any resolutions proposed by Mr. Tooke at that club?—I recollect that there were resolutions proposed by Mr. Tooke, but really I cannot recollect the purport of them just at this moment.

Do you recollect any resolution of this sort: "That it was the opinion of the Whigs of that day," [in 1688], "that the happiness of this nation was best provided for and secured by a mixed———

Mr. *Attorney General*.—If you will tell me you have any witness to prove that in a regular way, I have not the least objection to your putting it in a way not regular.

Mr. *Gibbs*.—I verily believe we have. I have the newspaper of that day, in which these resolutions are published. I understand you to object, because you supposed I might be leading the witness.

Mr. *Attorney General*.—No: I have no such supposition that you were leading the witness; I have said over and over again, if you tell me that what you offer is evidence, I would not make an objection. I know that it may raise an awkward sensation, but you will allow me to say, that I have produced in this trial the Argus, and other newspapers, to which my learned friend, Mr. Erskine, and you, have objected, and successfully. Upon what ground then is this produced?

Lord Chief Justice *Eyre*.—Has this gentleman any recollection what the resolutions were?—I took no memorandums of the resolutions; I recollect that there were resolutions proposed by Mr. Tooke, but really I have not an accurate recollection of them.

Lord Chief Justice *Eyre*.—Can you recollect the substance of them?—I considered that the resolutions proposed by Mr. Tooke, though I cannot recollect the substance of them, were perfectly constitutional, perfectly loyal, and such as I should expect to be proposed by a complete well-wisher to the king and government of this country.

Mr. *Gibbs*.—Whether the motions were carried, such as they were, that Mr. Tooke proposed?—I was deputed to take care of a number of convivial friends who sat round me, and I believe I did not hear the question put, from the heat and noise of the room, and other circumstances, or that I was out of the room when the question was put upon the resolutions.

Did you hear what the resolutions were?—I cannot take upon myself to say, upon my *oath, whether I* did or not.

Did you hear any resolutions mentioned in the room?—I heard Mr. Tooke propose the resolutions, the substance of which was, as far as I can recollect, as I have already explained.

In the first place, was there any thing in these resolutions, according to your recollection of them, that went at all to attack either the King, or the House of Lords in this country?—Perfectly and completely, to my recollection, the reverse.

Is it the impression upon your mind, that the effect of these resolutions was the reverse of that I have been putting to you?—I can swear that the resolutions proposed by Mr. Tooke, which I cannot swear whether they were carried or not, were perfectly loyal and constitutional.

John Macnamara, esq. examined by Mr. *Tooke*.

I beg you to try to recollect whether the Constitutional Club was distinguished by any uniform or not?—It was distinguished by a uniform, to the best of my recollection, of a blue coat, with an orange colour cape, and a button with "the King and Constitution" upon it, in impressed characters.

Do you recollect whether I was a member of that club?—Not only a member, but to the best of my recollection, you were one of the original founders of that club.

Was Mr. Rose a member of that club?—I do not recollect that Mr. Rose wore that uniform.

Did Mr. Steele wear that uniform?—To the best of my recollection he did.

Did Mr. Pitt wear that uniform?—He did.

Did Mr. Dundas* wear that uniform?—I cannot recollect whether he did or not.

Did lord Frederick Campbell wear that uniform?—I am clear he did, because I sat not far from him at the table.

Do you remember the present Speaker, Mr. Addington,† wearing that uniform?—I believe he did, but I am not so positive as I am of the others that I have mentioned.

Do you remember Mr. Fielding, the counsellor, wearing that uniform?—Mr. Fielding did wear the uniform, to the best of my recollection.

Do not you recollect the present Speaker of the House of Commons being a speaker there: do you recollect any speeches he made at that time?—He may have spoken there, but as I have stated, I wished to take care of those whom I was deputed to see take their glass, and enjoy themselves, and did not quite so much attend to the speaking of the different members, as otherwise I might have done.

I was going to ask you, what the numbers were, but you might, in that situation, see

* Henry first Viscount Melville. See his Case, A. D. 1806, *infra*.

† In 1805 created Viscount Sidmouth.

them perhaps more than they were?—I cannot speak with accuracy; I thought about twelve hundred in all the rooms; for I fancy there were more than one room appropriated to the meeting.

You have known a little of me; in the course of your knowledge of me, did you ever hear me declare any thing against the King, the Lords, or the Constitution of this country?—My first knowledge of the gentleman who puts the question to me, originated, I believe, about that time, and from the very great zeal which he manifested, and the assistance he gave to the friends of the candidate that I supported upon the re-election for Westminster, I got into habits of intimacy with him; and in consequence of that I had frequent opportunities of hearing his sentiments immediately at that period; and again, at a much more awful period, the King's illness, at the time of the question of the regency; and I take upon myself to swear, that I never met any public or private character who I conceived understood the government or constitution of this country better than the prisoner at the bar. I also take upon myself to swear, that I do believe no man ever existed, who wished better to that constitution, and to the government of this country, consisting of King, Lords, and Commons, than the prisoner at the bar, during the whole of my acquaintance and knowledge of him.

John Macnamara, esq. cross-examined by Mr. *Attorney General.*

You have been speaking to transactions I understand of the year 1788?—I have, and you may easily correct me if my recollection is not accurate, to the transactions of 1788, or 1789; but I fancy all the business of the regency happened in the year 1789; I speak, therefore, to my knowledge of the prisoner in that year, and upon that business.

I believe you have been principally abroad since the year 1788 or 1789?—I went abroad in October, 1789.

Of course you neither mean to speak to any transactions since the year 1789, nor to inferences that arise out of any such transactions, as to your belief as to character or public principle, or otherwise, with respect to the gentleman at the bar?

Mr. *Macnamara.*—Give me leave to understand you.

You of course are not speaking from any transactions you have known since the year 1788 or 1789, as the ground of your belief of the character that you have given of the gentleman at the bar?——Most certainly I cannot speak to any transaction that I neither knew or probably did not hear of, because transactions that happened in London I could not hear accounts of in Rome and other parts of Italy where I have been.

You have been abroad a good deal, I believe, since the year 1789?—Until the middle of last June, entirely. From the month of October, 1789, till about the middle of last June, when I returned to England.

Allow me to ask you whether in the course of your being abroad you were in France?—I was at Paris the latter end of October, or the beginning of November, 1789.

But not since?—Yes, intending to go to Italy, through the south of France, I went as far as Tours in France upon my journey, but feeling the melancholy situation of the country, and Mrs. Macnamara not being willing to go without her children, and fearing a great deal more for them than herself, though I wished to have gone that way, I notwithstanding returned through Paris.

What I wish to ask you is this, whether you know the fact of addresses having been carried to the National Convention of France, in the latter end of the year 1792, from any persons, and whom, in this country; and the transactions in Paris that passed relative to those addresses, and the effect of them?—For ten months before the 3d of August, 1792, I was in Paris; that was the second time of my being there.

You left Paris before the 10th of August?—I left Paris upon the 3d of August.

To save you trouble, do you know any thing of transactions that passed at Paris in November, 1792, with respect to addresses from societies, or bodies, or individuals, of men in England, to the National Convention?—I do not; upon the 3d of August I left Paris, I went to Switzerland, and from thence into Italy.

Then, if I collect the effect of your evidence, it is this, that you speak very strongly to the character of the gentleman at the bar from all you know previous to 1789, and that you know nothing of any of his transactions since 1789?—You are perfectly accurate in giving that construction to what I have said; but during the period of my intimacy with the gentleman at the bar, I had frequent opportunities of conversing with him upon political subjects, and subjects of government, and from any reading I might have had, or any conversation with other people, I never did receive so much information, nor did I ever know any man that seemed to be more loyal, nor had a greater affection, or that would have sooner sacrificed himself for the maintenance of the constitution of this country, and the government of it, consisting of King, Lords, and Commons, still always exceedingly determined upon a reformation of the Commons House of Parliament.

Understand me for a moment; you have given, as became what you are, to my knowledge, a very honourable man, a very considerable testimony to the character of the gentleman at the bar; do you mean to say that you collect that testimony from any one fact from your own knowledge since the year 1789?—Most decidedly not.

John Macnamara, esq. re-examined by Mr. *Tooke*.

Perhaps, since we talk of Paris, and it is so often introduced, you may know something of the situation of Paris before the Revolution; do you know, or have you heard, from good authority in that country; have you reason to believe that before the Revolution many more thousands of the poor people of France died yearly, than have died through the war, of putrid diseases, for want of wholesome food; do you know the situation of that country so well before the revolution as to know that putrid diseases, through unwholesome food, killed more thousands of the French than have fallen in battle since?—I can give an opinion, but I cannot swear to any thing positive upon the subject.

Do you know that in France, before the Revolution, many hundreds every year were broke alive upon the wheel, and put to death by the severest torture?—I know the government of the country was in a most wretched and deplorable state, that there were executions shocking to humanity, and that there were wretches who deserved such executions; for the people of France, both before and since the Revolution, were not remarkably famous for good behaviour and conduct.

Did you travel to the south of France?—No farther than to Tours, the troubles of the country put it out of my power.

Mr. *Attorney General*.—Are you speaking of those barbarities after the Revolution of 1791?—I speak to the barbarities that came within my own knowledge, from the latter end of the month of October, 1789, and upon my second return to Paris, ten months before the 3rd of August, 1792, when I left it; I speak of barbarities, some of which I was a witness to, that were shocking to humanity, and which it would not be necessary to this cause to repeat.

William Fielding, esq. (Barrister at Law), sworn.—Examined by Mr. *Erskine*.

You, I believe, sir, were a member of this club concerning which my client at the bar has examined?—I do not know whether I may call myself a member of that club; the reason of my being in that assembly was, that as I had the honour of being concerned for my lord Hood, whose interest was very particularly taken up, and the essential consideration of the meeting of that club, I took the liberty of going there, though I was no elector of Westminster.

But I take for granted, from what I know of your honourable temper and nature, that you would not have gone there, though lord Hood's counsel, unless your opinion had coincided with theirs?—My opinion certainly would have carried me there, and carried me through all the purposes of that society with the fullest approbation of my heart.

I believe you also wore the symbol of that opinion; indeed, I perfectly well recollect having seen you in that dress?

Lord Chief Justice *Eyre*.—Will you put the question in a plainer dress.

Mr. *Erskine*.—I have seen Mr. Fielding in his uniform.

Lord Chief Justice *Eyre*.—Do you mean the blue and orange?

Mr. *Erskine*.—Yes. Do you recollect, upon any occasion, seeing the prisoner at the bar there?—Several times: Mr. Horne Tooke, during the election for my lord Hood, had been frequently of those parties that I, as counsel, was necessarily called to; that was the first opportunity of any acquaintance that ever I had with Mr. Horne Tooke; knowing him there, I certainly recognized him very frequently at those societies when I had the honour of being there.

I am sorry to put a question so frivolous for so grave an occasion, but the example has been set, concerning the ceremony by which unanimity has been expressed: Do you recollect any particular ceremony by which the members of that club signified their unanimity? do you remember their holding hand-in-hand?

Lord Chief Justice *Eyre*.—We have nothing to do with that.

Mr. *Erskine*.—That was stated to have passed at the Scotch Convention.

Lord Chief Justice *Eyre*.—That is quite another thing.

William Fielding, esq. examined by Mr. *Tooke*.

Whether you did not incite and persuade me, with a thousand or twelve hundred other men, to get up and hold hand-in-hand all round the room, and resolve to stand and fall together?

Lord Chief Justice *Eyre*.—All that belongs to this subject, relative to that meeting, is, that you did there propose some resolutions expressive of loyalty to the king, and attachment to the constitution, in King, Lords, and Commons.

Mr. *Fielding*.—I should have no objection to answering the question which Mr. Tooke puts to me, and, I rather think, in a good-natured and flattering way. After the speeches of several other gentlemen, I attempted a speech myself; and I endeavoured to exhort the gentlemen then present to resist what I then deemed, and deem now, the abuses that had been practised in the Westminster election on the other side; I wished to bind them in the most hearty manner to immediate action; and I recollect, they so far honoured my feeble efforts upon the occasion, that, after I had done my address to them, every man in the room, to the amount, I believe, of twelve hundred or more, rose up, and joined hand-in-hand, which I took as a token of their approbation to me, and a determination to resist those abuses to the utmost.

I desire not to ask any thing improper, and Mr. Fielding has said truly I would not ask any thing improper: I beg he will say whether he imagined any person of this twelve hundred who did so rise and hold each other's hand, and declare such unanimity to stand or fall together (a declaration I never joined in any where else), whether he thought any thing treasonable was intended by the company?

Lord Chief Justice *Eyre*.—That is an improper question.

Mr. *Tooke*.—Whether you ever saw the original bond, by which that club was bound?—I never did; I believe my name will not be found in it.

I beg to ask whether you were present on the 5th of November, 1788, at the meeting of that constitutional club?—I do not recollect.

Can you recollect being present at any time when a letter was received by the chairman of that club from the Revolution Society, and from the Whig Club?—I believe I was present at that meeting.

Do you recollect that Mr. Beaufoy at that time said something upon that occasion?—That brings it to my recollection; but what Mr. Beaufoy said I cannot recollect: I remember you made a speech at the end of the table, but, upon my oath, I cannot charge my memory with the contents of that speech.

Do you recollect any thing about a proposal for raising a column?—There had been something about a proposal of a column that the Whig Club was to erect.

Lord Chief Justice *Eyre*.—Mr. Horne Tooke, you have been heard, and shall be, when you confine yourself to that which is a proper subject of evidence; the only point that has been opened of this Constitutional Club is, that you did, upon an occasion which called for an expression of loyalty, propose resolutions expressive of loyalty to the king, and expressive of your attachment to the constitution in King, Lords, and Commons; as to all the rest, passing in a club of this kind, it is foreign to this inquiry, and not very fit for the grave consideration of a court of justice.

Mr. *Tooke*.—I have mentioned these circumstances for the single purpose of assisting the recollection of Mr. Fielding, and have so far succeeded, that I have brought him at length to recollect the meeting where these resolutions were moved; this is the single purpose for which I mentioned the other circumstances. Since you do recollect that certain resolutions were moved by me at this meeting——

Mr. *Fielding*.—Pardon me for correcting you: I do not recollect that what you said there had the force and appearance of a resolution; I only can recollect that you made a speech; but whether you moved any thing specifically as a resolution I have not a recollection.

Mr. *Tooke*.—I am trying to bring your recollection to that one part; and I do it to avoid calling some other witnesses, who, I believe, are still here in the court, to save the time of the court as far as possible, barely to touch two or three points with one witness or two only.

Lord Chief Justice *Eyre*.—Do you recollect any thing of the speech, or what was understood to be the purport of it?—I really cannot charge my memory with it more than that Mr. Horne Tooke spoke.

William Fielding, esq. cross-examined by Mr. *Attorney General*.

You have been asked as to some transactions in the year 1788?—The election of lord Hood and lord John Townsend in 1788; I believe.

I believe you have heard most of the evidence given in this cause. You know nothing of any of the transactions that have been given in evidence from the year 1790, downwards?—Not a syllable.

Mr. *Tooke*.—It does seem to me extraordinary that whenever I examine to one period of time, the attorney-general objects to it that it is not to another period of time; that seems hard upon me.

Lord Chief Justice *Eyre*.—The attorney-general does not object to your examining.

Mr. *Tooke*.—No; but he insinuates that I might be an honest man in that year, and otherwise the next; but he seems to think it of no consequence that I was an honest man that year.

Lord Chief Justice *Eyre*—We take the fact as it stands upon the evidence; this was a transaction in the year 1788, which as far as the evidence goes,—it is but loose, but, as far as it goes,—shows that in the year 1788 you expressed yourself upon a public occasion in loyal terms of the king, and showed an attachment to the constitution, in King, Lords, and Commons: this is the evidence.

Mr. *Tooke*.—But I think it very unfair that the attorney-general upon every period should say—this is only 1788.

Lord Chief Justice *Eyre*.—The attorney-general asks a question, which he has a right to do, whether Mr. Fielding speaks of a later period than 1788.

Mr. *Tooke*.—I will ask to the later periods when I come to them.

Mr. *Attorney General*.—The view with which I asked it is this—If Mr. Fielding had told me he did know any thing of the transactions since 1790, I should have asked him what he knew of those transactions.

The Right Honourable Lord *Frederick Campbell*, (Lord Clerk Register of Scotland), sworn.—Examined by Mr. *Tooke*.

Mr. *Tooke*.—My lord, I am sorry to be obliged to call you, but the want of recollection in other witnesses compels me to have recourse to yours; and I think I shall not fail with your lordship, for strong reasons,

which I dare swear your lordship recollects.—I believe that I had the honour to dine with your lordship, at Willis's rooms, on the 5th of November, 1788?—I think so.

In the constitutional club?—Yes.

With the blue and orange, and the button written round?—Most certainly.

I believe your lordship recollects that I did on that day move certain resolutions there?—I am confident you did move some resolutions, but to what effect I have not the least recollection now; but, if you put me in mind, I shall be able perhaps to answer any questions.

I shall assist your lordship's recollection by mentioning that they passed unanimously with exceeding satisfaction?—Upon my word I do not recollect that.

Does your lordship recollect that my health was drank afterwards?—I do not recollect it in the least.

Does your lordship recollect that these resolutions were moved without your being previously acquainted with them?—Yes, I do.

Does your lordship recollect speaking a little sharply to me?—I do.

And that I spoke very softly to you in return?—That I do not recollect.

I think that lord Camden sat next to you then, as he sits next to you now?—Possibly; I do not recollect.

Do you recollect the resolutions from the Whig club, and the Revolution Society?—I recollect that perfectly, and that I objected to it.

Does your lordship recollect my objecting to them too—Do you recollect laughing pretty heartily at what I said upon the subject, in a speech relative to revolutions?—I am glad I had an opportunity of laughing, and should be very glad to laugh again.

Did you hear any thing of the substance of those resolutions; perhaps I may recall them to your mind?—Very possibly.

Mr. *Attorney General*.—This is not regular; but I do not object to it.

Mr. *Tooke*.—I confess it is not regular; but what can I do when asking to transactions at a distance of time, where gentlemen have so many things to occupy their minds? Was it either in these words, or to this effect, perhaps I may bring it to your lordship's recollection—"That we heartily concur with the opinion of our ancestors, and view with equal distrust and disapprobation, whoever may attempt, and whatever may tend, to destroy that balance so fixed at the Revolution: that the happiness of the nation was best provided for, and secured by, a mixed and well-balanced government of King, Lords, and People"?—I have not the smallest idea; not the least recollection of it.

Mr. *Tooke*.—I will not trouble your lordship any farther; I am sorry I have troubled you so much.

Mr. *Attorney General*,—I shall give you no trouble, my lord.

The Right Honourable *John Jefferys*, (Earl *Camden*), sworn.—Examined by Mr. *Tooke*.

I am very sorry to trouble your lordship, but you see I am driven from one bad recollection to another, and at last, I hope to a good one. Your lordship was present, I believe, on the 5th of November, 1788, at the Constitutional Club?—I was.

In the uniform, which I had then the honour to wear in common with yourself?—I do not exactly remember the date; I take for granted from what has passed, that that was the day.

During the king's illness?—Yes.

I believe your lordship sat next, or near, lord Frederick Campbell, who sat near lord Hood the chairman?—I did.

I dare swear your lordship recollects the letter sent by the Whig club, and the Revolution Society?—I recollect something of it.

Do you recollect some conversation upon the question?—I recollect there was a conversation.

Perhaps your lordship may recollect Mr. Beaufoy speaking, and my following him?—I recollect your speaking.

Do you recollect my proposing resolutions after I had spoken?—I recollect your proposing resolutions.

You recollect, perhaps, their being unanimously carried?—I think so.

And your lordship may recollect, perhaps, that lord Frederick Campbell expressed some displeasure at their being moved without a previous notice?—I think he objected to not having been informed of the resolutions you proposed.

Does your lordship's recollection go at all, without any farther assistance, to what was the substance of those resolutions?—I cannot recollect.

Do you recollect that I did, at the time, say any thing which was offensive on the score of disloyalty?—I do not recollect.

Do you think I did?—I think not.

Does your lordship recollect a toast that was given for the king's speedy recovery at that time?—I think there was such a toast given.

Mr. *Tooke*.—I only state it to show the period, that it was at a time when men might probably be disloyal.

Lord Chief Justice *Eyre*.—Who gave the toast?

Mr. *Tooke*.—It was given generally in the company, and myself acceding to it.

Lord Chief Justice *Eyre*.—Though you do not recollect the exact purport of the resolutions, do you recollect, in general, what was their tendency, whether they were expressive of loyalty to the king?—I am perfectly certain there was nothing that expressed a contrary opinion.

Mr. *Tooke*.—Your lordship recollects this was the 5th of November, the revolution day?—It was.

Do you think it bore any resemblance to this—"That it was the opinion of the Whigs of 1688, that the happiness of this nation was best provided for, and secured by, a mixed and well-balanced government, of King, Lords, and People"?—I think it very likely might be something of that sort;* I do not sufficiently recollect the turn of the resolutions, to say I believe they were of that sort.

Perhaps your lordship may recollect better this which follows: "That we heartily concur with the opinion of our ancestors, and view with equal distrust and dissatisfaction, whoever may attempt, and whatever may tend, to destroy that balance so fixed at the revolution, and to usurp upon the prerogative, rights or privileges, of either branch of the constitution"?—I recollect that resolutions of that sort were proposed at the time that I used some times to meet Mr. Tooke, during that Westminster election.

Mr. *Tooke.*—That is enough for me; for that was the only day, in that Constitutional Club, upon which those resolutions were come to, and they were proposed by me.

Earl *Camden.*—What I meant to say was, I think, that, at some of the meetings, I attended at that time, there were resolutions to that effect, which you moved; but I do not recollect exactly whether they were moved at the period to which you allude.

Mr. *Tooke.*—That is as much as I wish your lordship to recollect; because I recollect, and know, and can prove, that there never were, in that Constitutional Club, resolutions moved but once, and never but by me; and therefore, it must have been at that time, for the club is not yet dissolved; we are still members; and it may happen to your lordship, by being a member of a club to which I belong, that the treasons, with which I am accused, may all fall upon your lordship.

Mr. *Attorney General.*—This is not fit——

Mr. *Tooke.*—I have done—Does your lordship recollect this:—"That it is the duty of every true friend to his country, in whatever connexion he may find himself, and by whatever name he may be distinguished, to keep his view perpetually and strictly fixed upon the settlement of our constitution, made in 1688; and at all times, according to his station, to use his best endeavours for the maintenance of that settlement in its purity, whose wisdom has been confirmed by an hundred years experience of blessings and prosperity, unknown to any other nation upon earth"?—I do not recollect that.

The Right Honourable Earl *Camden*, cross-examined by Mr. *Attorney General.*

Has your lordship had any intercourse with Mr. Tooke, in any club, since the year 1788?—None whatever.

Mr. *Tooke.*—Is the Constitutional Club dissolved at this moment?—I am not aware that there has been any resolution to dissolve it.

Mr. *Tooke.*—So that the club still exists, and his lordship's relation is just as strong with me as ever, which was none at all.

Mr. *Attorney General.*—Have you been present at any meeting, where you have had any conversation or intercourse with Mr. Tooke, since the year 1788?—I do not recollect having had, and I am certain I have had no conversation with him since that time.

Henry Beaufoy, esq., sworn.—Examined by Mr. *Tooke.*

I believe you were a member of the Constitutional Club, held at Willis's?—I remember being at a meeting at Willis's

The Constitutional Club?—I did not know that it was the Constitutional Club; I understood it to be a meeting chiefly, I think, of friends to my lord Hood; but that it was the Constitutional Club has escaped my recollection.

Did you not wear the buttons on a blue coat?—I do not recollect that I wore any dress, that day, but the ordinary dress I am accustomed to wear, a blue coat, with a common metal button.

And with an orange cape?—No.

Did not you accustom yourself to wear a blue coat with the ornamented button?

Mr. *Tooke.*—I am worse off than ever:—Mr. Beaufoy does not recollect. *(To earl Camden)* I beg to ask your lordship whether you recollect that upon that button which we wore in the Constitutional club, the words "Constitutional Club" were not written round?

Earl *Camden.*—"Constitutional Club," or "King and Constitution," or something of that kind.

Mr. *Beaufoy.*—There were persons who wore an orange coloured cape; whether they wore a particular button, or not, I do not know; but to the best of my recollection, I neither wore the buttons, nor the cape.

Mr. *Tooke.*—I am older than Mr. Beaufoy, but I find my memory is better. Do you recollect dining at Willis's on the 5th of November 1788, when lord Hood was in the chair?—I remember dining in the year 1788, I believe lord Hood to have been in the chair, at Willis's

Do you recollect a letter received from the Whig Club, and from the Revolution Society?—I have an imperfect recollection of such a thing.

Have you any recollection of talking with me upon the subject, and giving me notice of it?—I recollect addressing the meeting on the subject of the Revolution; the impression on my mind, speaking at this distance of time, was, of believing the constitution to have been effected at the time of the Revolution; and considering that the substantial, practicable happiness of the people of this country,

* The remainder of this answer is thus reported by Blanchard: "The terms of the Resolutions, I rather believe, were of that sort."

under the present family, must be owing, in a great measure, to that Revolution, that I wished to celebrate it with much solemnity; and I think I did, at that time wish to celebrate the Revolution with great solemnity.

My recollection differs from yours. Have not you considered yourself as the leader of the Dissenters, in some part of your life?—I never had the vanity so to consider myself: thinking the Dissenters entitled to the common privilege of citizens, I certainly did in the House of Commons, upon that ground, move the repeal of the Corporation and Test Acts.*

If you will be so kind as to attend and keep your recollection to those subjects which I shall speak of, I shall be much obliged to you.—Do you recollect being applied to by the Revolution Society, and engaging yourself to carry a bill into parliament for the purpose of the commemoration of that day on which the Bill of Rights passed—it is not foreign from the present subject. Do you recollect that yourself brought forward to the society a proposal for that society to join with you—perhaps the noble lord may recollect this better than the others—a proposal for the Constitutional Club to concur with the Revolution Society, in order to get an act of parliament for a perpetual commemoration of that day upon which the Bill of Rights passed?—I perfectly recollect being applied to by the Revolution Society, and acceding to the proposal that I should move in parliament, a bill for the celebration of the anniversary of the Revolution. †

Do you recollect bringing that before this very meeting?—I recollect, as I said before, addressing the meeting upon that subject, that is what I before expressed.

Perhaps you recollect my writing some resolutions upon that occasion, having written them at your desire, on the spur of the occasion, and your carrying them to, and communicating them to lord Hood, and repeating, to the meeting, his approbation for moving those resolutions, or proposing them, which lord Frederick Campbell did not know, and, therefore, he was displeased at it, and thought I had done it of my own head—but can you recollect that I was justified by your approbation, and communication with lord Hood, and in consequence of that approbation my moving certain resolutions?—I recollect certain resolutions being communicated to me by Mr. Tooke, but what the resolutions were has escaped my recollection.

Recollection is like certain cases of insanity, touch a particular string, and, perhaps, you bring it all out; perhaps if I only mention a word or two your recollection will return.—Can you recollect any thing like this—"That it was the opinion of the Whigs of that day, 1688, that the happiness of this nation was best provided for and secured by a mixed and well-balanced government of King, Lords, and People"?—It is exceedingly difficult for me to say that that was the resolution.

No, something of that kind?—

Lord Chief Justice *Eyre*.—What do you say upon it?—But speaking from very imperfect remembrance, I should rather incline to think that a resolution to that effect was proposed by Mr. Tooke.

Mr. *Tooke*.—"That we heartily concur with the opinion of our ancestors, and view with equal distrust and disapprobation whoever may attempt, and whatever may tend to destroy that balance so fixed at the Revolution and to usurp the prerogative, rights or privileges, of either branch of the constitution?"—Speaking still, as I observe, from very imperfect recollection, I should rather imagine, from the present impression of my mind, that a resolution similar to that, perhaps that very resolution, was moved by Mr. Tooke.

"That it is the duty of every true friend to his country, in whatever connexions he may find himself, and by whatever name he may be distinguished, to keep his view perpetually and steadily fixed upon the settlement or constitution then made, in 1688, and at all times, according to his situation, to use his best endeavours for a maintenance of that settlement in its purity, whose wisdom has been confirmed by a hundred years experience of blessings and prosperity unknown to any other nation upon earth?"—The same answer that I gave before, speaking from the present impression, still an imperfect one of what then passed, I shall give as to this resolution.

Mr. *Tooke*.—It would be very wrong to strain your recollection any farther.

Henry Beaufoy, esq. cross-examined by Mr. *Attorney General*.

This was in 1788, was it not?—In November, 1788.

In an election contest?—Subsequent to the contest of lord Hood for Westminster.

Have you had any intercourse or commerce with the gentleman at the bar, since that time?—My acquaintance with Mr. Tooke began in that contest in 1788, he was a warm and zealous supporter of the interest of lord Hood, and as a person of that description, my acquaintance with Mr. Tooke did not absolutely terminate then, though I remember but two occasions upon which I have

* On March 28th 1787; see the Debate on Mr. Beaufoy's Motion in the New Parl. Hist., Vol. 26, p. 780. See also New Parl. Hist., Vol. 27, p. 1181.—On May 8th, 1789, Mr. Beaufoy again moved the repeal of the Test and Corporation Acts. See New Parl. Hist. Vol. 28, p. 1. See also p. 415 of the same Volume.

† Mr. Beaufoy brought forward in the House of Commons a motion for leave to bring in a bill for the purpose here stated on the 21th of March, 1789. See the debate thereupon in the New Parl. Hist. Vol. 27, p. 1332.

seen him since—one was an accidental meeting in the street, in which, I believe, nothing particular passed, but to ask him how he did—the next was seeing him at the time he was a petitioner against Mr. Fox, before the House of Commons.

And you know nothing of any transactions of Mr. Tooke, except what you have now stated?—No.

Mr. *Tooke*—This gentleman's remembrance requires so much *flapping*, that I must beg leave just to wake it once more. You saw me only twice, once in the street, and once attending my petition?—At this moment I remember no more.

Mr. *Tooke.*—But at the next moment I dare swear you will.—Did you never meet me at Waghorn's Coffee-house—Was there never a time when you were unhappy (your recollection, perhaps, may serve you) because after all the money you had spent, and your faithful services to Mr. Pitt, he would not return your bow, this is a circumstance to awaken your memory, because it is a strong case—I do not solicit the acquaintance of Mr. Beaufoy, and I knew, before hand, that he suspected I brought him here to my character; the gentleman thought, how God knows, that at sixty I wanted any body to my character, and, therefore, I must recall his memory, because it casts an imputation upon me, as if Mr. Beaufoy was afraid or ashamed to be half so much acquainted with me as he has been, therefore it is necessary to recall his remembrance?

Lord Chief Justice *Eyre.*—He has spoken of it as he recollects it; you have a right to remind him, but in no sort to make that observation upon the testimony, which certainly imports nothing like it.

Mr. *Beaufoy.*—I have no sort of objection to answer this question.

Mr. *Tooke.*—That the gentleman should forget so strong a circumstance astonishes me, because he is upon his oath?

Mr. *Beaufoy.*—I have not the smallest objection to answer the question.

Lord Chief Justice *Eyre.*—Mr. Tooke, you are wrong to mix these kind of observations with your questions, you may ask Mr. Beaufoy upon the subject of having seen you, as much as you please, but you should not mix observations with your question.

Mr. *Tooke.*—I do assure your lordship I make use of it only as a circumstance———

Lord Chief Justice *Eyre.*—I do not object to your asking the question, only to intermixing observations.

Mr. *Tooke.*—This is not intended as an observation, but as a circumstance absolutely necessary to recall the matter to Mr. Beaufoy's recollection.

Mr. *Attorney General.*—There is no man more tender about interfering than I am, but I call upon your lordship to protect the witness, who is a person as much entitled to the protection of the Court, as the prisoner—let the prisoner put his question but he has no right to introduce it with an observation that bears hard upon the character of the witness, to whom he puts the question.

Lord Chief Justice *Eyre.*—I have repeatedly stated to Mr. Horne Tooke what the rule is, and in point of decency, and civility, he ought to observe it.

Mr. *Tooke.*—It is so kind of the attorney-general to protect my witness, that I am sure it would be inhuman of me not to protect him too, therefore I shall say no more to him.

Lord Chief Justice *Eyre.*—Why do not you then ask the question?

Mr. *Beaufoy.*—I have no recollection, whatever, of any moment of my life, since my first acquaintance with Mr. Pitt, in which the circumstance happened of his refusing to return me a bow; and in which I expressed to Mr. Tooke, the smallest uneasiness from a circumstance of that kind.

Mr. *Tooke.*—You applied to me for my interest at that time; but I have no interest now, and it is quite right for you to forget it.

Mr. *Beaufoy.*—There is nothing more foreign to my remembrance.

Mr. *Attorney General.*—The witness has sworn that it has not happened———

Mr. *Tooke.*—Mr. Attorney General, do me no wrong, he has not sworn it, he only swears he does not recollect; but Mr. Beaufoy will not deny it, upon his oath, in the presence of persons of the description that I see round, able to inform themselves upon the subject hereafter, I will venture a wager———

Lord Chief Justice *Eyre.*—A wager!

Mr. *Tooke.*—I am wrong—I forgot myself.

Lord Chief Justice *Eyre.*—You have a right to ask Mr. Beaufoy, without all this introduction, whether he will speak positively or confine himself to his want of recollection; I can do no more than state the rule, and call upon the prisoner to abide by it.

Mr. *Tooke.*—I am contented, I only justify myself from the attorney-general's supposition of having forgot myself farther than I had, but he did not swear the contrary, he said he did not recollect it.

Lord Chief Justice *Eyre.*—I am sorry to see that you do not point your question.

Mr. *Thomas Symonds* sworn.—Examined by Mr. *Erskine.*

What is your profession?—A student of the law.

In your passage to the bar, I take for granted?—Yes.

Of which of the inns of Court are you?—Of the Inner Temple.

Are you a member, or have you at any time been a member of the Constitutional Society?—For two or three years I have.

Are you still a member?—Yes.

Are you acquainted with the prisoner at the bar?—I have that honour.

Are you acquainted with him in private life, as well as accustomed to meet him at

this society?—I have been several times in his company, both at his own house, and sometimes at other places.

Was your attendance upon this society regular or frequent?—Tolerable; sometimes I have attended pretty frequently, at other times I have omitted for two or three months, perhaps attended constantly, and then omitted for a month or so.

Did you attend with sufficient frequency to be acquainted with the objects of the society?—Perfectly.

What were the objects of the society?—A parliamentary reform.

We have had so much disquisition upon the meaning of that word, that I wish to ask you what you understood and meant by a parliamentary reform?—A reform in the House of Commons.

Was that not only understood, but universally expressed to be the object of your meeting?—I believe it had always been considered as the only object of our meeting.

Of what number did that society consist? I do not know the number the society consisted of, but the average attendance was about fourteen or fifteen.

From any thing that was transacted in the society whilst you were a member of it, have you any reason to know, or to believe, that at any time that original object was departed from, and another substituted in its stead?—Never; every act that they did, considering the circumstances under which the act was done, always appeared to tend, and to tend solely, to that object.

Did you ever hear any proposition made in that society, or any discourse stirred by any man in it, that led you to believe, or even to suspect, that the society had changed its object?—Never.

Would you have remained, and would you still remain in the society, under such an impression?—Certainly not.

Have you frequently seen the prisoner at the meetings of the society?---Yes.

Are you able to recollect, though not the words, the substance of his political opinions, delivered in the society, as applicable to these objects?—Every expression that he used on any occasion, went solely to parliamentary reform, and was always strictly in favour of the monarchy, and the aristocracy, the original ancient hereditary aristocracy of the country.

When these opinions were signified by Mr. Tooke at this society, did it appear to you that they were the objects of the rest of the society to which they were addressed?—Undoubtedly so.

Were you a member of the society at the time of the meeting or convention, or whatever you choose to call it, that was held at Edinburgh?---I was then a member, but did not attend, I disapproved of the proceedings; I believe, when the business first came on, I was confined from ill health, but I believe I had an opportunity of attending within a week after.

Upon what ground was it that you disapproved of the Convention at Edinburgh?—In the first place, I did not know enough of the persons who were to be the delegates, and in the next place I thought it might be mistaken by the public.

From what you knew of the professed objects of this Convention at Edinburgh, and from what was stated in the society to be the objects, have you any reason to believe any thing criminal was intended?—Not in the slightest degree.

I am not asking you how far people who got themselves together there, might be guilty of misdemeanor in the course of a proper object; but was any thing said in the Constitutional Society previous to that time, when the matter of delegates was first stirred, that led to the conception of a Convention in Scotland to subvert the government?—I do not recollect any thing of the sort.

Do you recollect any proposition made by the Corresponding Society to the Constitutional Society to co operate with them to have members from their society to confer with members of yours, for the purpose of holding another convention?—I do; I believe I was in the chair either at the time the delegates came, or the week after.

To the best of my recollection I saw you in Court last night?—I was.

Did you hear the resolutions read which were sent by the Corresponding Society, with a desire to be entered upon the minutes of the Constitutional Society, and in which they agreed to appoint members to meet their body?—Yes, I did.

You were in the chair I think that night?—I was either in the chair that night or the night after

When this proposition was made and acceded to by the Constitutional Society, what was understood, I do not mean when I say understood, to ask your private understanding, but what was understood, as far as that understanding was expressed, by those persons who adopted it, or rejected it?—By producing general concurrence in favour of parliamentary reform to obtain their object ultimately.

Was that the object of the Constitutional Society in accepting the proposition of a conference with the members of the Corresponding Society?—Entirely so; there is nothing of which I am more certain.

I ask you upon your oath, whether there was any thing said by any man who did accept of that correspondence with the Corresponding Society which signified the contrary, or could induce any human creature to think the contrary?—Not a syllable.

Lord Chief Justice *Eyre*.—It is better to ask what they did say—Was there any debate upon it?—There was some debate, but I do not recollect any thing particular upon it.

Mr. *Erskine*.—Do you recollect what was stated by those present, what was stated to be the object of this conference when accom-

plished?—I do not recollect what was stated, but I am sure nothing was stated to render it otherwise than a parliamentary reform.

If there had been a conspiracy to subvert the government, by means of this convention, must not you have known it?—Undoubtedly.

I will put it in a stronger way, if it be possible—if this Committee of Conference, which was the first which was proposed by the Corresponding Society, and accepted by the Constitutional Society, had been to set on foot a conspiracy for the detestable object stated in the indictment, must you not, as being present, have collected that?—Undoubtedly.

Did you collect such an object?—No; nor had I any suspicion that any body else could think so, till these persons were taken up.

Now that you have had an opportunity of seeing different members of the society, have you any reason, upon your oath, from any thing you know, to believe any such thing was the purpose?—Not the slightest; I am perfectly sure of the contrary.

Were you present at any subsequent meeting, after the appointment of this committee, when the report was made?—I was.

If I understand the matter right, the committees of the two societies met, and they brought their resolutions upon the 11th of April before the Constitutional Society for their approbation?—Yes; I was there when the resolution was brought, and I was there the week before.

This is the resolution of the committee:—"Resolved, that it appears to this committee very desirable, that a general meeting or convention of the Friends of Liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people?"—I was there then.

If these proper methods of obtaining a full and fair representation of the people, had been a total departure from all the objects of your society from its first institution, do you think it is possible you should not have collected it from some member of the society who were debating this, and adopting it?—It is impossible but I must have collected it.

I find a distinction in point of phrase, between the resolutions of the committee, and the resolutions of the society at large, that adopted those resolutions; I have read the one, I will read the other now: "Resolved, that it appears to this society very desirable that a general meeting of the Friends of Liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people." Do you recollect any, and what, debates taking place that produced this modification, and change in the resolutions?—I recollect there was some debate about the word 'Convention,' because, I believe, I was the first to oppose the use of that word, as it might tend to mislead the public mind; that they might think we had some other object in view, than merely Parliamentary Reform; therefore I opposed it, made a very few observations, and that was followed by several others.

Upon your oath, when you made that objection to the word 'Convention,' lest it should produce the misrepresentations that you have adverted to, had you the least idea, in your own mind, that there was a conspiracy on foot?—Not the slightest.

Have you now?—No, I never had one moment of my life.

That is *bonâ fide* what you said?—Undoubtedly.

How was the proposition, *bonâ fide*, made by you, received by those to whom it was made?—There was some little discussion upon the two words 'Meeting and Convention;' but it was agreed, at last, that the use of the word *Convention* might lead the public mind to mistake the object of the society, and therefore it was omitted.

I observe that your society, almost at the beginning, and throughout all the proceedings, make use of this phrase, "a full and fair representation of the people." From what passed, from the expressions of all and every member of that society, and from the beginning to the end of your acquaintance with it, what was the meaning of a full and fair representation of the people in parliament?—I believe that, in our society, they were inclined not to go quite so far as the Corresponding Society; some members of the society were in favour of Universal Representation, some were not; I was not for one, and many were not.

Do you know what were the sentiments of the gentleman now before you upon that head?—Fifty times have I heard him reprobate, and violently, in talking with many of his friends, the idea of Universal Representation; it was his constant object.

Did you ever hear any member of the society make a proposition, or enter into a debate, that touched the honour, majesty, or authority of the king?—Never.

Did you ever hear any proposition made, or any incitement, not to a conspiracy, but to a disposition to touch the hereditary office of the House of Lords?—Undoubtedly not; they were all concerned merely in obtaining a Reform in the House of Commons.

Was it ever stirred, in effect, to accomplish the objects of your society, by any means not legal or constitutional?—Never.

Do you think it possible that a conspiracy could have been on foot, to accomplish the object of your society by combination and force, without your being acquainted with it?—Impossible.

Did you ever hear of the idea of arms being used for that purpose?—Never.

Had you ever the idea of exciting others to use arms for that purpose?—Never.

Was it ever debated, proposed, or stirred, in any of your approbations of the liberties of France, to put down the particular liberties of our own country, in order to emulate them?—By no means; not an observation ever passed of the kind

I see, by the evidence here, that this resolution was come to upon the 11th of April, and that then the Constitutional Society made several adjournments; now the committee of conference and the committee of co-operation, having met, and come to this resolution, they continued to be committees for the objects of conferring, till they were taken up?—I do not know any thing of the meeting of these committees; I believe I attended the week after, probably two weeks after.

Then, had you any reason to know, or believe, that these five persons, who were deputed from your society, to meet those who were deputed by the Corresponding Society, the moment they were appointed by delegation, changed the objects of the society?—Undoubtedly not.

In the first place, were you present when Mr. Tooke was proposed to be a member of this committee of conference?—I really am not certain.

You have told me expressly what the objects of the society were, in deputing these gentlemen to confer, and that you have no reason to believe they have departed from the same objects; in order to know that, we will see what their objects were before. You know the committee consisted of Messrs. Joyce, Sharpe, Bonney, Pearson, and Wardle. Now we will go by steps: Were you acquainted with Mr. Joyce previous to the time, and up to the very day, and hour, that he was appointed to confer with the other society?—Very well.

Do you know whether the objects which the society had, and publicly professed, were also the objects of Mr. Joyce, and equally publicly professed by him?—I have frequently had conversation with Mr. Joyce, and always found his opinions moderate, opposed to the violence that existed in other people's minds.

Are you now speaking up to the very 11th of April?—I am speaking to the last moment when I saw him, which was, I believe, on that day.

Do you know Mr. Sharpe, the celebrated engraver?—I do.

Was he a frequent attendant upon the society?—Pretty well.

Have you been present either at the dinner of the society with Mr. Sharpe, or at the meetings of the society, when the public objects of your society have been talked of and debated?—I was very frequently there, and often dined there before the society met.

Have you any reason to believe that Mr. Sharpe's objects were different from your objects?—None in the least.

We will go next to Mr. Bonney, now in the Tower: Had you seen him many times at the Constitutional Society with the others?—Yes; I have seen him several times; I do not know so of much him as I do of Mr. Joyce, but I have been at his house several times.

Whether you ever were acquainted with any man of purer and more moderate principles than Mr. Bonney, on political, and all other subjects?—I never knew a more moderate, quiet man, in my life, than Mr. Bonney; it is his peculiar characteristic.

Had Mr. Bonney the character, in the society, of being a man devoted to the English constitution in its forms?—He had the character of being a very peaceable, moderate man, and a very loyal subject.

There is Mr. Pearson, were you acquainted with him?—Slightly.

Have you seen him at the society?—Yes; and have seen him frequently since.

Have you any reason to know, or believe, that Mr. Pearson entertained any design to subvert the government, or to alter the constitution?—None at all; not the slightest.

There is but one more, Mr. Wardle?—Mr. Wardle I never saw above two or three times, to my recollection, so as to have any conversation with him.

Then I have your evidence to this, that the Constitutional Society's object was Reform in the House of Commons?—Nothing else.

And up to the 11th of April, 1794, they pursued that object?—Entirely so.

Mr. *Solicitor General*.—This is a repetition of the evidence given.

Mr. *Erskine*.—It is no repetition at all. If any conspiracy had existed among those persons, who were appointed thus to confer together, do you believe you should have known it?—Undoubtedly, I must have known it.

From their character, do you believe them capable of entering into such a conspiracy?—I could never conceive an idea of that sort for a moment.

Mr. *Thomas Symonds* cross-examined by Mr. *Attorney General*.

Now, Mr. Symonds, you were chosen, I think, as far as appears by the books, a member of this society upon the 1st of June, 1792?—I do not know the date myself, but that, I have no doubt, is about the time.

You were either proposed or seconded by Mr. Joyce?—I believe I was; but not being in the society at the time, I have a very faint recollection of it.

Now, then, to begin with Mr. Joyce: Do you happen to know that Mr. Joyce was present when the address of the Constitutional Society to the National Convention of France, was ordered to be presented by Mr. Frost and Mr. Barlow?—No; I do not know that he was present.

Have you never heard that?—I never heard it.

Are you much acquainted with Mr. Joyce?—Pretty much acquainted with him.

And you mean to say you never heard of that fact, that Mr. Joyce was present when Frost and Barlow presented the address to the National Convention in France, that you never heard of that?—I cannot speak, with certainty, that I have heard of it.

You will not deny that you have heard of it?—I rather think I never have heard of it; one's recollection is confused by having read the report.

You know very little of Mr. Wardle?—Very little.

You do not know where he is, at this time, perhaps?—No; I know nothing of Mr. Wardle.

Mr. Sharpe you know very well?—Yes.

You were not with him when he called upon a gentleman, in a neighbouring place, and left his name, citizen Sharpe, of a particular description, were you?—No; I was not.

Mr. Bonney, you know, very intimately?—Yes.

Did you ever see a drawing of "the road to Hanover?"—Never.

"The road to Hell, by Hanover," did you ever see a drawing of that sort?—I never heard of it till this moment.

You came into the society in June 1792?—I have no doubt of it.

You know there has been such a society as the London Corresponding Society?—Yes, I do.

Do you know Mr. Hardy?—No.

Have you dined in company with him lately?—No; I know him now, only by having seen him here.

You know that he is an associated member of the Constitutional Society, I presume?—I believe that he is, but I do not know it for certain.

Do not you know that in July, 1792, Mr. Hardy, and five other members of the London Corresponding Society, were associated members with your club, the Constitutional Society?—I know that some persons were associated members, but I do not know their names.

Did you know, six weeks ago, that the resolutions of the London Corresponding Society, which were entered upon the books of the Constitutional Society, were entered from a draft signed "Thomas Hardy, secretary," in the hand-writing of the gentleman at the bar?—Undoubtedly I did not.

Did you know that the society, at Sheffield, had sent to your Constitutional Society, to desire that twelve of their members might be associated; and that there was in the possession of the secretary of your society, a letter with the hand-writing of the gentleman at the bar in it, proposing that association?—To the first part of your question I can only answer, that I know some country societies sent, desiring some members might be admitted.

I ask you, then, this question—you know that there were country societies associated with you?—I remember very well once being present, when one society, it was either proposed by a member present, or by letters, that some persons, members of that country society———

This was before your time; I am speaking of what happened in March. Do you know any thing of the resolutions of the society previous to June, with respect to Paine's works, with respect to the association of the Sheffield people, or the Norwich people?—No.

Or the Southwark people—the representative government people?—The Southwark people, I am pretty sure not—my mind is confused about the Sheffield and Norwich people—I have some idea about some country societies.

Upon the 16th of April, 1793, perhaps you know that your society wrote a letter to the Norwich societies, telling them that there was nothing to be expected from the king, nothing to be expected from parliament; and that the only remedy the public could have, would be by a convention of the people, by delegates from the different societies?—I certainly know something of that.

Then I beg to ask you, do you know whose hand-writing that draft is? (showing it to the witness.)—No, I do not; I never saw this paper before.

You are a gentleman studying the law—did you ever see the letter that was sent to Norwich about this convention?—Never to my knowledge.

I ask you, then, if you had seen a letter from this society, stating, that there was to be no remedy from the king, and none from the parliament, but, from a convention such as I have been describing to you, would you have remained in that society?—Undoubtedly if they set aside the authority of the king, or the authority of the parliament, I should not—but, if they held out, that the parliament was likely to be influenced by a general meeting of the people, and the general voice of the people, conveyed in that way to parliament, I should have thought it a proper object.

Then I ask you again, if a letter had been sent from the society, to your knowledge, upon the 16th of April, 1793, that meant more than that?—Undoubtedly I should not have consented to it.

And you would not have staid in the society—now you were a member of this society as early as June, 1792; you have heard, no doubt, of the address of the London Corresponding Society, to the National Convention of France?—I have heard of it; I have heard more of it here than any where else.

That address, you see, was sent to the National Convention, in October or November, 1792. When that address was sent, did you know that your society, or any members of it, had had any thing to do with it?—If I recollect right, I was confined with illness at that time.

Give me leave then to ask you, whether you knew that Mr. Hardy had sent to Mr. Tooke a letter, to desire his advice about a declaration to the Convention of France?—I knew nothing of the kind.

Did you know that Mr. Tooke had corrected and settled the constitution of the London Corresponding Society?—Not till I heard it here.

Did you know that Mr. Margarot had written to Mr. Tooke, relative to a declaration to the Convention of France?—I did not.

You knew nothing of that all the time you were in the society?—No.

You were a member of the society when the Constitutional Society sent an address to the National Convention of France?—I believe I was.

Did you happen to be ill at that time?—I recollect nothing about it, and from what cause I cannot tell, whether I did not attend, or what, I recollect having seen it in public.

I do not put to you a question upon the contents of the address, but I ask you, if that address had contained sentiments going beyond yours, as you have explained them, with reference to the letter of the 16th of April, 1793, would you have continued to belong to that society?—If the address merely applied to the state of France, I certainly should have agreed in stronger language regarding France than regarding England, because I think their case required strong measures.

But if it had relation to the state of England, you would not have gone to that length?—By no means, they are different cases.

Did you ever read a letter from the editor of the Patriot, at Sheffield, in the possession of Mr. Adams?—I have no recollection of it.

Were you privy to an answer being prepared to that letter, which has any part of it in the hand-writing of the gentleman at the bar, which states that infant freedom is making herculean efforts?——

Mr. *Erskine*.—Take the letter itself.

Mr. *Attorney General*.—I will take the words of the letter.

Mr. *Tooke*.—Take the words in my hand-writing.

Mr. *Attorney General*.—Did you ever see or know that there was such a letter sent by the society—"We are brothers in affection with you, with the freemen of Sheffield, of Stockport, and of the whole world—freedom, though an infant, makes herculean efforts, and the vipers Aristocracy and Monarchy are panting and writhing under its grasp? May success, peace and happiness attend those efforts."—Did you know that such a letter as that was sent from your society?—No, I have no recollection of it.

Did you know that the words "success," and "those efforts." were in the hand-writing of the gentleman at the bar? -No, I knew nothing about it.

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You have told me, before, you knew nothing of the letter of the 16th of April, 1793—when did you first know that Mr. Frost, in his address to the National Convention, had told the president, that he hoped they would soon send ambassadors to a National Convention in England?—I did not know that Mr. Frost had said that till this moment.

Did you know that Mr. Adams had, in his possession, an account from Mr. Frost, stating, that he had said that to the National Convention, when he presented the address of the Constitutional Society?—No, I did not; I rather think all these transactions took place at the time I was confined for six weeks in bed.

Did you know that the president of the National Convention had returned an answer to Frost and Barlow, stating to them, that he hoped the French would soon send ambassadors to a National Convention in England?—This is the first time I have heard of it.

Then, of course, you did not know that Mr. Adams had in his possession, as secretary of your society, a letter, stating, that the president of the National Convention had done all this?—Undoubtedly not.

When your society came to a resolution of thanks to Barlow and Frost, were you aware that these transactions I am now stating had passed in the National Convention in France?—I was not aware of any particular transaction.

But, being present, you permitted it to pass?—And perhaps I might even have consented in a more direct way, because, as they went over to express the approbation of many friends of freedom in this country, to the principles of freedom, if they had executed their commission I should have thought they deserved thanks.

You were not, I think, indeed I am pretty sure you were not of the society when the address went to the Jacobins; you know that was when they had a king in France?—I rather think that was before I was in the society.

You know nothing, therefore, of that address?—I do not.

How long was it, after the 10th of August, that your society set about addressing the National Convention?—I do not recollect the dates at all.

Did you ever see the address of the London Corresponding Society, to the people of England, of the 6th of August, 1792?—I may have seen it, but I have no recollection of it.

Did you ever know, that upon the 8th of August, 1792, Hardy or Margarot had sent to Mr. Tooke a copy of that address, desiring his opinion of it?—I know nothing about it.

You know nothing of all that; you, of course, knew nothing of the actual proceedings of the Scotch Convention, in 1793?—No, nothing but from the public papers.

Do you remember ever to have seen in the possession of Mr. Adams, or ever to have heard in point of fact, that there was, in the

possession of Mr. Adams, a letter from Mr. Skirving, representing, that the Scotch Convention would, in effect, die away, unless your Societies in London sent them delegates?—No, I know nothing about that.

Margarot was, you know, an associated member of your society?—He may have been but I do not know it.

Mr. Gerrald, perhaps you know, was an associated member of your society?—It is impossible for me to tell who were members.

But whether Margarot and Gerrald were, or not, associated members of your society; perhaps you know, in fact, that they were the delegates from the London Corresponding Society to the Scotch Convention?—I do not know, from my own knowledge—I only know from public reports.

Do you know who proposed Mr. Martin to be a member of this society?—I do not know.

You do not know, then, that the gentleman at the bar proposed Mr. Martin?—I have heard it.

Possibly you have seen the proceedings at the Globe tavern, upon the 20th of January?—I have heard of them here.

Did you know that such proceedings had passed on the 20th of January, at the Globe tavern, before they became the subject of very public conversation and notoriety?—I knew there was a meeting, but I did not know what took place; and I heard that there were some strong resolutions, but I did not know what in fact had taken place.

Were you present at that society upon the 17th of January, 1794?—You may bring it to my recollection by circumstances.

There were some resolutions, that a student of the Temple may not like to hear of—when law becomes an instrument of oppression; and Jefferies and the like: you know what I am speaking of?—I was not present.

Did you ever see the rough draft of these resolutions?—No.

Not being present, you cannot tell me, perhaps, whether Mr. Gerrald took the chair, upon Mr. Tooke's walking out of it?—I do not recollect ever seeing Mr. Gerrald in the chair.

Were you present upon the 24th of January, 1794, when there was a resolution, "that the most excellent address," without any date—"the most excellent address of the London Corresponding Society, be inserted in the books of this society;" and then a great deal of reasoning, whether the parliament should be termed his majesty's parliament, his faithful parliament, and his honourable parliament, and so on?—I was not present.

You cannot therefore recollect the resolution—"The London Corresponding Society have deserved well of their country?"—No.

Your curiosity perhaps may have led you to have read the resolutions of the 20th of January, since the circumstances which have lately happened with respect to these societies?—I have heard much of them here and elsewhere, but have not read them.

From all you have heard of them, should you have thought that society had deserved well of their country?—I must have a more accurate idea of the proceedings of the society before I could give that approbation of them.

I take for granted you did not know that your society paid Thelwall for 2,500 addresses of the London Corresponding Society?—I did not.

You did not know that Adams had paid, upon the request of any body whatever, six guineas to Thelwall, to reimburse him for 2,500 addresses of the London Corresponding Society;—you know nothing of that?—No.

Do you recollect a communication from the Corresponding Society that they were to have a meeting upon the 14th of April?—I do not recollect that——Do you mean the last 14th of April.

Their communication with your society that they were to have a meeting upon the 14th of April?—No, I know nothing of that.

Did you know that Thelwall was an associated member of your society?—I believe he was.

I ask you, did you, whilst you remained a member of the society, know that Thelwall was a member of it?—I cannot say that I did, of my own knowledge; I thought he was.

Did you know that Margarot was?—I do not know what you mean by *know*; do you mean looked at the books and saw their names entered?

No; whether you knew, by any sources of information, that Thelwall was a member, Margarot a member, Martin a member, Sinclair a member, and Gerrald a member?—I knew Martin and Sinclair were members.

And Mr. Gerrald?—I did not know.

Mr. Margarot?—I did not know.

Did you know that the Society for Constitutional Information printed the letter of Mr. Paine to Mr. Dundas?—Yes, I did.

Did you know that the London Corresponding Society printed the letter of Mr. Paine to the people of France for the use of persons in England?—No, I did not know that.

Did you know that Mr. Joel Barlow sent a letter to your society upon the 6th of October, 1792, relative to his publication of a letter to the National Convention of France; that you thanked him, and ordered the resolutions to be published in the papers?—Yes, I know that.

And did you know the contents of Mr. Barlow's letter?—I have a general recollection of them now.

Mr. *Attorney General.*—I shall ask you no more questions.

Mr. *Erskine.*—Nor shall I.

Lieutenant-Colonel *John Money* sworn.—Examined by Mr. *Tooke*.

I have but two or three questions to ask you, because I shall not ask you any thing which I think you do not know—You have been in the service of France?—Yes.

At what time did you enter into the service of France?—Here is my commission signed by the king of France and the Mareschal de Camp General in the armies of France.

At what date did you first enter?—This is, I think, the 18th of July, 1792.

At what time did you quit the service?—When I heard that this country was likely to be at war with France.

What date was that?—The 25th of December, 1792.

As soon as you heard that this country was likely to be at war with France, you very honourably quitted the service?—I did.

But, up to that time, did you think that you were acting the part of a loyal subject?—I certainly did, or I had not gone into the French service; I knew very well that a Commercial Treaty subsisted between this country and France; I had the approbation of my friends before I went, and I came from thence the moment———

Lord Chief Justice *Eyre*.—We are not inquiring into your conduct.

Mr. *Tooke*.—I want a very short answer, to a very short question.

Colonel *Money*.—I will give you as short an answer as you please, or as long an one as you please.

Mr. *Tooke*.—Whether after your return to England in the year 1792, you waited upon the secretaries of state, lord Grenville, and Mr. Dundas?—The instant I arrived in England I waited upon Mr. Dundas: I wrote him a note.

I do not want to know particulars.—Did you receive any reproaches from either of the secretaries of state for having been in the French service up to that period in 1792?—I did not.

Have you since that been at Court?—I have.

And you have been received graciously by the king?—Very graciously.

Lord Chief Justice *Eyre*.—Not one word of this is evidence; I shall strike out every word of it.

Mr. *Tooke*.—Will your lordship be so kind as to tell me what is evidence, and then I will give that which will be evidence.

Lord Chief Justice *Eyre*.—The conduct of colonel Money is not under our consideration: whether he acted right or wrong—whether he was approved of by the secretary of state and the king, or disapproved of, is nothing to the present inquiry.

Mr. *Tooke*.—By endeavouring to be short, perhaps my object is not perceived.

Lord Chief Justice *Eyre*.—If there is any thing that connects you with any circumstance that concerns colonel Money then it will be evidence.

Mr. *Tooke*.—My object is this—that in some month, I do not know which, whether July, August, October, or when, certain subscriptions or letters of mine, declaring an approbation, or intention to give assistance (for none was given) to France, appear to me to have been spoken of as if they were after the war commenced; now, it seems to be much stronger in the case of a man who has the approbation of the king and the secretaries of state who had actually been in the French service, than a proposal to give some shoes to the soldiers, which never were given.

Lord Chief Justice *Eyre*.—If your point was to show when the war commenced, so far it may be proper, because in that date your case may be implicated; but whether colonel Money acted right or wrong, whether his conduct was approved or disapproved, cannot touch your case.

Mr. *Tooke*.—No, surely, that was not my object; I meant to have the joint benefit of showing what were the opinions of this gentleman and the secretaries of state relative to the commencement of the war; and joining that evidence with the king's speeches, both before and after this time, I thought that I should satisfy any reasonable mind that I could not know what nobody else did; but, if it is wrong, I have lost but little time, I will not pursue it—I have no more questions to ask colonel Money.

——— *Marwell*, esq. sworn.—Examined by Mr. *Erskine*.

Do you know Mr. Horne Tooke?—I do.

How long have you known him?—I have known him ever since the year 1793.

Where did you first become acquainted with him?—At Wimbledon.

Did you visit him there?—I did.

Had you ever any opportunity in consequence of those visits of knowing his political sentiments?—I had.

Confidentially?—Yes, I think I may say confidentially.

What days did you visit Mr. Tooke?—Generally, I think, on a Sunday.

What passed upon those occasions, as relative to the particular subject which brings us here?—It would be difficult for me to state every thing that has passed upon those occasions.

I mean any prominent circumstance that your mind suggests to you at this moment?—I have heard Mr. Tooke say that he disapproved of universal suffrage; I have heard him argue against it in the presence of a few confidential friends.

Did you ever hear Mr. Tooke say any thing with regard to the means of accomplishing a parliamentary reform?—I have.—I remember to have heard him say, that he thought it might be a proper thing for some gentlemen

who were present, and such others as might approve of the plan, to stand, whenever any opportunity offered, for the close boroughs: and if they did not succeed in being returned to parliament, that then they should petition, in order to expose all the absurdities and iniquities attending the election at such boroughs, and by that means to induce a majority of both Houses of parliament, and the borough proprietors, through shame, to agree to a reform in the representation of the Commons House.

Did you ever hear Mr. Tooke offer any expression hostile to the prerogative of the crown, or to the king's person?—I never did.

Or to the hereditary office of the peers in the House of Lords?—Nor to the hereditary office of the peers in the House of Lords I never did.

———*Maxwell*, esq.—Examined by Mr. *Tooke*.

Whether there were any gentlemen at my table that day, when this proposal was made by me, of standing for all the pocket boroughs, who consented to stand when the boroughs became vacant?—There was one consented.

Do you recollect his name?—Mr. Walker, of Manchester.

Do you recollect any other?—I do not recollect any other who consented.

Did you yourself take it for consideration?—I approved of the thing, and took it for consideration.

———*Maxwell*, esq.—Cross-examined by Mr. *Attorney General*.

You are not doctor Maxwell, are you?—I am not.

May I presume to ask you where you live?—My residence is in the county of Linlithgow, in Scotland.

On what occasion did you come up to town in 1793?—I generally am in town every year.

You did not happen to dine at Mr Tooke's at any time towards the close of the year 1792?—I was not acquainted with Mr. Tooke at that time.

———*Maxwell*, esq.—Re-examined by Mr. *Tooke*.

As you are not doctor Maxwell, I beg to know what trade or profession you are of?—I am of no trade or profession.

Whether you are a clerk in any office?—No, I am not.

Whether you are any gentleman's servant?—No.

Whether you have servants of your own?—Yes, I have.

Mr. *Attorney General*.—I asked whether he was doctor Maxwell, because there was a doctor Maxwell, I see, a member of the Constitutional Society.

Mr. *Tooke*.—He is a gentleman in a very different station.

Edward May, esq. sworn.—Examined by Mr. *Erskine*.

Do you know Mr. Horne Tooke?—Yes.

How long have you known him?—Better than two years.

Are you a member of the Constitutional Society?—I am a member of no society at all.

Your acquaintance with Mr. Tooke is of course in private life?—Entirely so.

Have you been intimate with him?—Yes—Mr. Tooke has often dined at my house, and I at his, and not being a member of either of the societies, I wished to know his principles; we have often talked very freely; I have frequently asked his sentiments upon politics, he has uniformly told me he wished well both to the king and the aristocracy of this country; that the only change he wished was in the House of Commons. The last conversation I had with Mr. Tooke was in the street, a very short time before he was taken up.

Upon these subjects, did you find Mr. Tooke a man loose and floating in his opinions, or was he steady to one opinion, and to one purpose?—I found him both when he had drank a great deal of wine, and when perfectly sober in the morning, uniformly consistent with the same principles. I have heard him reprobate the introduction of Paine's principles here, saying, that this country was not fit for a republic; that the only thing he wanted was a parliamentary reform; and he also told me that he refused being a delegate to the Scotch convention.

Edward May, esq.—Cross-examined by Mr. *Attorney General*.

Do I rightly understand you, that in conversation with Mr. Tooke you have heard him reprobate Mr. Paine's principles?—Reprobate the introduction of his principles here, and I have also, to the best of my recollection, heard him say that he refused being a delegate to the Scotch convention.

William Tooke Harwood, esq. sworn.—Examined by Mr. *Erskine*.

You are, I believe, an officer in the army?—I am.

Of what regiment?—The ninth of dragoons.

Of what rank?—Captain of a troop in the ninth regiment of dragoons.

Do you know Mr. Tooke?—Most intimately.

How long have you known him?—My uncle introduced me to him about six years ago, who has likewise a great friendship for him.

In consequence of that introduction, and your uncle's friendship, that intimacy grew between you?—It did.

Have you been in the course of visiting him much?—Frequently, from day to day.

I take it for granted that it has happened to you in consequence of that intimacy, to have had conversation with Mr. Tooke upon

many different subjects; whether, among others, you have ever conversed with him upon political subjects?—Certainly, it was his general theme.

Are you able to inform the gentlemen of the jury what his sentiments were upon political subjects, as applicable to this country and its government?—He had the highest veneration for this government in King, Lords, and Commons, but he said the House of Commons wanted a reform; that there were a great number of borough-mongers, who ought to be made ashamed of themselves; that that part of the representation ought to be reformed, and there were no other means of reforming it, but by application to themselves, and continual applications, till they were made ashamed, and had done it.

Do you remember any proposition of Mr. Tooke to try to accomplish this purpose, and in what way?—He made a proposal to a great number of friends, that they should all stand for the different rotten boroughs, and that each should petition against the members who might be supposed to have bought the original interest of it. I proposed myself to be one, I believe Mr. Maxwell was another, Mr. Walker, of Manchester, another, and I believe there were some others who were very desirous of doing it; he said, by this means only we could ever expect a reform; and it was only by such a reform that we could ever expect any good to this country.

Was Mr. Horne Tooke uniform, steady, and firm in those principles?—Yes; in every thing I ever heard him say or do.

You never found him taking up a sentiment one day, and laying it down the next?—Never.

William Tooke Harwood, esq. cross-examined by Mr. *Attorney General*.

I believe it appears by the Constitutional Society's book, that you are a member of that society?—I am.

Is not your name William Tooke Harwood?—Yes.

It appears by the book that you were present upon the 23rd of March, 1792. Do you recollect certain resolutions from Sheffield, with a resolution of the Constitutional Society upon them, and an association of twelve members from Sheffield with your society?—I think I remember the association of twelve members; what the resolutions are, unless I heard them, I cannot tell.

You signed them, I believe, as chairman?—If I did I will tell you. [*The book shown to the witness*]. That is my writing.

You were present, I believe, also, as the book informs me, when your society wrote a letter to the society of the Friends of the People?—I believe I was.

Are you a member of the society of the Friends of the People?—No, I am not.

Do you recollect the answer that was sent by lord John Russell to your society?—No, I do not recollect what it was.

You never read it perhaps?—I dare say I did at the time, but I have forgotten it again.

Do you recollect an application from Norwich, which was read in the Constitutional Society upon the 4th of May, 1792, for associating twelve persons at Norwich with your society?—I think I do.

You have no doubt, that application was made, and that then they were associated?—I think they were.

You were present also, I believe, upon the 11th of May, 1792, when an address was resolved upon to the Jacobins in France?—That I am not certain of.

Your name appears here; you have heard of such an address?—I have.

Have you any doubt that the society sent one?—Really I do not know; I was not the instrument of sending one, nor do I know how it was conveyed, so I cannot say.

Nor do not know the contents of it?—No, I do not.

You know that Mr. Paine was a member of your society?—He was.

And Mr. Barlow too?—An honorary member.

Do you know of the proceedings of your society about the publishing Barlow's works, and Paine's works?—I do not remember them at this moment, we approved of part of them, and part we disapproved.

What part you approved, and what part you disapproved, I take for granted, will appear in the resolutions of your society?—Very probably.

Do you recollect that Mr. Tooke was to send the address to the Jacobins at Paris?—No, I do not.

Were you present when the address of the London Corresponding Society was agitated, whether it was a proper thing to be sent to the National Convention of France?—No, I was not present.

Did you know that two persons of the London Corresponding Society, Margarot and Hardy, had consulted Mr. Tooke about that address?—I did not.

Did you know that Margarot was an associated member of your society?—I have seen him there, and, therefore, I dare say he was, otherwise I do not know that he was.

Have you seen Mr. Gerrald there?—I have.

Mr. Sinclair?—He was a member.

Mr. Martin?—He was a member.

Were you there when the address from your own society was sent to the National Convention?—I really do not know; if you will tell me the time, perhaps, I may recollect.

The address of the 9th of November, 1792?—I have not been in London in the month of November, for the last five or six years.

Do you happen to know who was that address of the 9th of November?—I do not.

Were you in town in April, 1793, when a letter was sent to Norwich, saying, you were not to look to the king or parliament?

Mr. *Erskine.*—I would much rather you should read the whole of the letter.

Mr. *Attorney General.*—Were you present when a letter of the 16th of November, 1793, was sent to Norwich relative to an address to the king, or the parliament, or the holding a convention of the people?—I do remember a letter of that kind.

Be so good as to look at that [*showing it to the witness*], and tell me if that is the draft of the letter?—I dare say it is.

Whose hand-writing is that draft?—I do not know, for a certainty, whose it is.

Whose do you believe it to be?

Captain *Harwood.*—Should I implicate any body upon my belief, when I am not certain?

I ask you according to your belief. Do you believe it to be the hand-writing of any person that you have ever seen write?

Captain *Harwood.*—Do you mean whether I can guess it or not?

Do you believe it to be the hand-writing of any person whom you have ever seen write?—No

You do not?—I cannot swear to that hand-writing at all.

I am sure you do not understand my question; I do not ask you whether you know, but whether you believe it is the hand-writing of any person that you have seen write?—I can tell you it is more like one man's than another, if that will answer your purpose.

That will not do, my question is exceeding plain. Do you believe it to be the hand-writing of any person you have seen write?—I think it is Mr. Paine's.

Have you seen Mr. Paine write?—No, never; I have seen him writing in the same room, but I never looked over him while writing.

Mr. *Attorney General.*—If you had told me that at first I should not have pressed you: I see you were present upon the 16th of April, 1793, you remember, perhaps, that Mr. Frost read a letter which was to be sent to the United Societies at Norwich, I ask you, upon your recollection, by whom, according to your knowledge, if you do know by whom was that letter to Norwich prepared?—When that letter was received from Norwich, it was first proposed that Mr. Frost should answer it; but upon a re-consideration, as I came from Norwich, the letter was given to me to answer; I carried it in my pocket from one time to another, and through carelessness I did not answer it; just before the meeting of the society I sent that letter over to Mr. Vaughan, and begged him to carry it to the society, and requested him either to answer it himself, or get some one to answer it. When I came to the society the answer was written, and, I believe, it was afterwards sent.

Then you do not know who prepared it?—I do not, farther than that it was written when I came.

Lord Chief Justice *Eyre.*—On what day was it voted to be sent?

Mr. *Attorney General.*—On the 12th of April, 1793, according to the book. You have now stated what you did with this draft. There is an entry in the book, Mr. Vaughan, as one of a committee, is that the same Mr. Vaughan to whom you sent the Norwich letter?—Yes, Mr. Felix Vaughan; he did not belong to the Constitutional Society, but he sometimes dined there, and went away afterwards.

Did he belong to the London Corresponding Society?—That I cannot tell; he belonged to some society, I believe. He dined with the Constitutional Society, but always went away before the meeting assembled, and therefore was gone away before I went there.

Do you recollect who read the answer in the society that night?—No, indeed I do not; I suppose the secretary.

You cannot charge your memory with that?—I dare say the secretary.

You do not know whether Mr. Frost was present that night?—I do not.

Do you remember being present when the society returned their thanks to Mr. Barlow, and Mr. Frost, for their conduct in presenting the addresses to the National Convention?—I remember that.

Do you remember the letters which were sent by Frost or Barlow, stating what they had said to the president, and what the president had said to them?—I never saw them, nor heard the contents; the thanks, I believe, I signed.

You say you sent the Norwich letter to Mr. Vaughan, and you found an answer prepared. Where did you get the Norwich letter?—From the society.

What society?—The Constitutional Society in London.

Do you recollect who gave it you?—I suppose the secretary, or I might take it off the table.

Look at this letter (*showing it to the witness*), and tell me, upon your recollection, whether this is the letter from Norwich?—I dare say that is the letter, which, I remember, we said was a very foolish one.

And you gave an answer to it, as such, I presume?—No, I do not know any thing about that.

I understood you to say that you had come from Norwich?—I did.

Had you been with any of the societies at Norwich when you was there?—I never visited the societies. I know a great many of the members of them.

Do you mean the societies that had twelve members associated with the Constitutional Society?—Yes, I knew some of them.

Was that letter put into your hands by the society, without any previous conversation on your part, desiring it to be sent?—It came

by the post, I suppose, there is the post mark upon it, I believe.

When you left Norwich, did you know that it was to be sent?—No, I do not know the man that signed it.

You knew nothing of the proceedings of the Scotch Convention, of course?—Not in the least.

And you were not present upon the 20th of January, 1794, at the Globe tavern?—No.

Nor present in the Constitutional Society upon the 17th of January?—No.

You were not present upon the 24th of January, in the Constitutional Society?—No.

Nor subsequent to that time?—No; I have not been in London for a twelve-month.

William Tooke Harwood, esq.—Re-examined by Mr. *Tooke*.

You have been asked concerning twelve associated members from Sheffield, and twelve associated members from Norwich—You answered, that you remembered the associated members: do you mean by that, that you ever saw any of them at that society?—Never.

To the best of your knowledge, did any of those associated members ever attend?—I believe, never any one.

When you said you remembered them, you meant remembered their names upon the books?—Just so.

And do you believe that any thing else ever followed from these associated members?—Nothing.

George Rous, esq., (Barrister at Law) sworn.—Examined by Mr. *Erskine*.

You are a member of the Society of the Friends of the People?—Yes; and have been so from its first institution.

Do you remember being present at the Society of the Friends of the People, when a letter came to them from the London Corresponding Society, touching the sending delegates to a convention, that they were about to call in the spring of 1794?—I do.

Do you recollect whether there was or was not a considerable number of the Society of the Friends of the People present upon that occasion?—I think there was a pretty full meeting.

Was the propriety, or impropriety of acceding to the proposition of the Corresponding society debated?—It was.

Upon what ground, and for what reasons was it rejected, and the letter sent which is signed by Mr. Breton, and has been read in this cause?—The reasons given, were an apprehension that a bad use would be made of the convention; the proposal was generally declined; the terms of the letter I do not recollect.

Though the Society of the Friends of the People rejected the proposition to join in that convention, yet they were ready to continue to co-operate with them for the general object of parliamentary reform?—Undoubtedly.

The proposition stated by the Corresponding Society in their letter, being read in your society, a debate upon it took place. What were the reasons assigned by yourself, and others, for not agreeing to send a delegate to this proposed convention?—I remember, perfectly, the reason which I assigned, and which produced, at the last, a general acquiescence was that a bad use would be made———

Mr. *Garrow*.—I must take the liberty of interrupting my learned friend, Mr. Rous, in this examination, and submit my doubts with great deference to the Court—Whether this can possibly be evidence, or any thing like evidence, or any thing that borders upon the shape of it. This is a society of which the gentleman at the bar, neither is, nor ever was, as I understand from any statement, a member, consequently he was not present at this meeting.—Mr. Rous is now examining as to the reasons which were stated by certain individual members of a society, calling itself a Society of Friends of the People, for a letter which they wrote, in which they state such reasons as they thought fit to give for declining the proposal that was made to them. That letter your lordships have received, and, I believe, without any objection from this side of the table, probably upon the ground, that as it is an answer to an act which is charged against the prisoner, it is fit to be received as part of the *res gesta* upon the subject. But whatever the real reasons were, good or bad, that were assigned either by the learned and honourable gentleman under examination, or by other persons, more or less learned, or more or less loyal than he is, with great deference they seemed to me not to be fit to be received in evidence, inasmuch as they appear to have no application to the subject. If this objection happens not to be founded, I beg pardon for interposing the objection, but it does not seem to me that this has any bearing upon the question.

Mr. *Attorney General*.—I must say a single word in support of this objection, because when one learned lawyer is examining another learned lawyer, with whom I have a great deal to do, in the course of my profession, he will pardon me for saying there is no end of it—If after Mr. Breton has stated the reasons of the Society of the Friends of the People in a letter, which is a great public document of that society, we are to have all the arguments, of all the very able orators in that society, for that is the effect of this examination. I have no doubt my learned friend would discuss this very ably in that society, though upon that occasion, probably, as well as many others, he and I should differ very widely.

Mr. *Erskine*.—I shall state very shortly my answer to this objection, for the very best reason in the world, because your lordship sees I am not capable of going into it at length.—The Court has very properly divided this cause into two branches—first, whether

any thing of a conspiracy of the nature charged in this indictment existed at all—and secondly, whether, if it existed, it is brought home to the prisoner. Under the first branch of that evidence a great deal has been gone into, of which I am sure your lordship will understand that I am not arguing against the admissibility, in order to show that the London Corresponding Society meant mischief by this proposed convention;—and in order to show that they meant mischief by it, a great deal of evidence has been given, of what was said by different members.

What I proposed to ask Mr. Rous, was this—A proposition was made to us,—I say *to us*, being myself a member of that society, and therefore it is a phrase natural enough,—but it was addressed to the Friends of the People, and Mr. Rous happened to be present at that time. Now if the attorney-general had proved that a proposition had been made to the Friends of the People of a nature, upon the face of it, most undoubtedly criminal, any sense which the Friends of the People could put upon that criminal paper, so written to them, could not do away its criminality in any degree: but as the paper is in itself indifferent, or if it were criminal, is certainly far short of that which brings us together in this place; and as its criminality is to depend upon the intention which the jury shall find that proposition to have been made with, I propose to ask Mr. Rous, whether any of the society, to which this paper was addressed, put that criminal construction upon it, which the attorney-general asks the jury to put upon it. But it is not that alone; the attorney-general says that, which I do not accede to, namely, you have got the document of this society, a letter signed by Mr. Breton, and therefore that document alone forsooth, is to be evidence. He may call it so; I deny it; I say that a letter, signed by Mr. William Breton, a very honourable and respectable man, as chairman of a committee—not a committee known to the law of the country, nor a committee formed of any court of justice, or court of parliament, but a voluntary assembly of private men—is by no means binding at all upon that society; and that, therefore, in order to get at the meaning of the Society of the Friends of the People, I have a right to examine every person who was present. It may be said, what is it to the purpose what the Friends of the People thought? Upon my word, that is what I wish to say; I think it nothing to the purpose; and if they had told the London Corresponding Society, in that letter, that they thought them traitors, and, instead of writing a civil answer, had handed it to the secretary of state, I should not have thought it criminated the London Corresponding Society at all, inasmuch as the opinion of private men, upon the acts of other private men, is not evidence in any court; but all evidence is competent, or not, as it is to be followed up by matter which touches the cause; and what I wished to examine Mr. Rous to, is this, that the Society of the Friends of the People having put this construction upon the word *convention*, which I am putting upon it, whether he did not see Mr. Richter, one of the persons now in custody, and whether he had not a certain conversation with him———

Mr. *Attorney General*.—You cannot state all your evidence in a speech.

Lord Chief Justice *Eyre*.—Then you give up the present point.

Mr. *Erskine*.—No; I do not.

Lord Chief Justice *Eyre*.—Then you should not start another. At present we are upon the question, whether Mr. Rous is to be permitted to give the particular reason which influenced him, and which, he thinks, influenced others to agree to that letter which was sent to the Corresponding Society: that is the only question, at present, under consideration; and that is the objection that has been argued.

Mr. *Erskine*.—And the only ground upon which I can answer the objection is this, that if they had not read the answer, which the Society of the Friends of the People sent to the Corresponding Society, it would be no evidence, nor any thing in the shape of evidence; but that the letter written by Mr. Breton, as the chairman of the committee of the Society of the Friends of the People, expressive of their sentiments, makes it open to us to shew what the real, genuine sentiments of that society were upon the occasion.

Mr. *Attorney General*.—That is to leave to the jury, whether Mr. Erskine or Mr. Rous made the best speech.

Mr. *Erskine*.—I was not there.

Lord Chief Justice *Eyre*.—It is utterly impossible to maintain that this can be received in evidence. The only thing that can be made use of to charge the prisoner, in any manner, is that which came to the hands of the Constitutional Society, and whether that was the sense of this meeting, or was not the sense of this meeting, is nothing to the purpose; the Constitutional Society did receive such a letter from the Friends of the People, that letter must speak for itself.

Mr. *Erskine*.—That is not the letter I am speaking of; it is the letter the *Corresponding* Society wrote to the Friends of the People, and the answer of the Friends of the People to the *Corresponding* Society.

Lord Chief Justice *Eyre*.—It is the answer and the grounds upon which that answer was sent, that we are now debating, whether other grounds, different from what appears in the answer itself, are to be received in evidence.

Mr. *Erskine*.—No, they are not different.

Mr. *Attorney General*.—Mr. Erskine must see, I am sure, that if he is at liberty to give in evidence what Mr. Rous said, I may be at liberty to give in evidence what every other gentleman said in that tavern upon that day.

Lord Chief Justice *Eyre*.—I have ruled it.

Mr. *Erskine*.—Then I submit to your lordship whether I am at liberty as ask Mr. Rous if any thing, and what, passed between him and Mr. Richter, a prisoner now in Newgate upon the subject of this convention?

Mr. *Garrow*.—To that we shall object, as we have not given any evidence of Richter's declarations. To ask what Mr. Rous said to Mr. Richter, or Mr. Richter said to Mr. Rous, I submit is as little evidence as that which your lordship has ruled not to be within a hundred miles of the shape of it.

Mr. *Erskine*.—Certainly no declarations of Richter have been offered in evidence; but declarations of any person implicated in this which is submitted to the jury as a conspiracy, have been given in evidence; and this is submitted to rebut the inference arising from it.

Lord Chief Justice *Eyre*.—The gentlemen will have the goodness to recollect the declaration I set out with in giving the rule in the morning—that the principle was, that declarations against a man's self are to be received; because no man is presumed to say any thing that would make against himself, for any other reason than because it is true; and that declarations for a man's self are not to be received, because there the contrary presumption takes place; and this is so universally known in practice, that I think it cannot fairly be debated.

Mr. *Tooke*.—My lord, the multitude of evidence which I had intended to call I wish to relinquish; I am very well satisfied with the evidence I have already given; but, as the bishop of Gloucester is in court, I will call him now, and conclude my evidence.

The Right Reverend *Richard Beadon*, D. D. Lord Bishop of Gloucester* sworn.—Examined by Mr. *Tooke*.

Mr. *Tooke*.—My lord, I ask the questions myself, because you are more accustomed to my voice than to the voice of the counsel—I beg your lordship to say how long we have been acquainted?—I think it is just forty years now.

Was that acquaintance slight, or affectionate and confidential?—For many years certainly not a slight acquaintance, but very confidential and very intimate.

Where did our acquaintance first begin my lord?—At the University, in the year 1754.

We were there some years together, I suppose?—Until we took our bachelor of arts degrees—about four years.

Lord Chief Justice *Eyre*.—The University of Cambridge?—Yes.

Lord Chief Justice *Eyre*.—What College?—St. John's College.

Mr. *Tooke*.—Does your lordship recollect my taking my master of arts degree?—I do, perfectly well.

Does your lordship recollect that that degree was opposed?—I do.

Does your lordship recollect ever any other person's degree being opposed?—I do not at present recollect any other.

Is not the degree of master of arts such a one as would be given to any creature that could answer to rational questions?

Lord Chief Justice *Eyre*.—For the honour of the University you will not pursue that Mr. Tooke.

Mr. *Tooke*.—I beg your lordship's pardon—It is of some consequence to me, and does not affect the honour of the University; if it did, I am too faithful a son of the University to put such a question; for I mean no joke upon that University.

Lord Chief Justice *Eyre*.—It is not put in terms that are quite so measured as you would upon consideration put it in.

Mr. *Tooke*.—It means no reflection, and is important for me. Your lordship must perceive it is something extraordinary that that which is given to every body for nothing was refused to me, and never refused to any body else.

Lord Chief Justice *Eyre*.—Certainly; I object only to the phrase.

Mr. *Tooke*.—Does your lordship think that the opposition to that degree, which is so easily given to every body, proceeded either from any immorality in my conduct, want of character, or want of common understanding and abilities?—I understood it to originate entirely from some letters printed in the public papers, said to be written by you to Mr. Wilkes, and published by him as such.

Does your lordship recollect that lord Montfort* took a very active part in opposition to my degree?—I do.

Does your lordship recollect that in consequence of that opposition, very minute and very strict inquiry was made into all the books of the University at large, and of your College in particular, to find out something to lay to my charge?—I certainly have an imperfect recollection of inquiries of that kind being made; how strict they were I cannot now say.

Does your lordship recollect that they produced the smallest censure of any kind to be laid to my charge?—I do not recollect any, and believe there was none.

Does your lordship believe, from my course of life, during my stay at that university, that any possible charge could be laid to me, with respect to my morality, knowledge, decency, quietness, or the respectability of my behaviour and conduct?—I certainly thought, at the time, that no such objection was brought to giving you your degree as I could accede to, and therefore I gave my vote for your hav-

* In 1802 translated to the See of Bath and Wells.

* Thomas Bromley, second lord Montfort.

ing the degree, and supported it as much as I could. *

Your lordship was at that time, I believe, tutor of St. John's, and orator of the University?—No, not at that time, I believe—yes, I believe you are right; I was public orator of the University, and I was tutor of St. John's.

If your lordship recollects you gave a dinner in that room where we have so often dined, when students?---Yes, it was in the year 1771 or 1772, I think.

Whether it is not your lordship's opinion, and whether you have not frequently expressed it to many persons, that whatever was my way of thinking, it had been the same from the time you first knew me, up to this time; I mean those of my political sentiments that are known?—I certainly have never known you vary in your political sentiments, in my hearing.

Have we talked freely and familiarly together, often, upon general subjects?—Undoubtedly. *

Did your lordship ever collect, from any conversation of mine, that I was disaffected to any establishment, civil, religious, political, or in short to any establishment in this country?—No, I never did.

From your lordship's knowledge of me, what must have been the general course of my life; must I have been very dissipated, or tolerably studious?—I am inclined to think it has been studious.

As much as most men?---I believe very studious.

A little more than most men?—More than many men, certainly.

Has your lordship ever assisted me with books, from the University of Cambridge?—I think I have.

Did your lordship discover for me some books no where else to be found, that were in the Bodleian library at Oxford, Caramuel and Campanella?—Yes.

Did your lordship suppose that I was more employed in deposing the king, and overturning the state, or in hunting out for new words and new meanings? Which does your lordship think most occupied my attention?—I knew you was very much employed in the latter; I never did know that you were and I hope you never have been employed in the former.

And did you believe that I was?—I have no reason to believe it, from any thing I have heard you say, or any thing I knew you do.

The Lord Bishop of *Gloucester* cross-examined by Mr. *Attorney General.*

Mr. *Attorney General.*—Do you know any thing of the proceedings of the Constitutional or the London Corresponding Societies, for the last three years?—Nothing at all.

Mr. *Tooke.*—Is not that question almost as bad as my speaking of the master's degree? And now we are even, because it must be as great a degree of insult to ask the bishop of Gloucester about the Constitutional Society, and Corresponding Society, as my speaking lightly of the qualification for a master's degree.

Mr. *Attorney General.*—I will not let this pass without rebuke from your lordship, if I am wrong; and without informing this court, that it is not to part upon this occasion with a laugh.

Lord Chief Justice *Eyre.*—It is impossible for me to say that the question was irregular; and there was nothing in the terms of it that conveyed that kind of objection which I felt to the other question; at the same time, undoubtedly, it is very evident, that the bishop of Gloucester could not possibly know any thing of these societies.

Mr. *Attorney General.*—I know in a court of justice, I cannot take it upon my notions of what the bishop of Gloucester does, or does not know. What is evidence must come from the bishop of Gloucester, as well as from any other man.

[It being now past nine o'clock on Thursday night, the Court adjourned to ten o'clock on Friday morning.]

Sessions House in the Old Bailey, Friday, November the 21st.

PRESENT.

Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Grose, Mr. Justice Lawrence, and others, his Majesty's Justices, &c.

John Horne Tooke set to the bar.

Lord Chief Justice *Eyre.*—Before we proceed it will be proper for the Court to take notice, that, in opening the case on the part of the prisoner, a great deal of stress has been laid upon the acquittal of Hardy. You know extremely well that properly no mention ought to have been made of the acquittal of Hardy, nor any observation made upon it, unless the acquittal of Hardy could be produced in evidence. You have not hitherto offered to produce it in evidence, and you are

* In the dedication of the First Part of his Ἔπεα Πτεροεντα, Mr. Horne Tooke expressed himself thus: "To the University of Cam-"bridge, one of her grateful Sons---who al-"ways considers acts of Voluntary Justice "towards himself as Favours,—dedicates this "humble offering: and particularly to her "chief ornament for Virtue and Talents, the "Reverend Doctor Richard Beadon, Master "of Jesus College."

* The dialogue of Ἔπεα Πτεροεντα, part 1, is chiefly carried on by Dr. Beadon and Mr. Horne Tooke. See Stephens's Memoirs of John Horne Tooke, Vol. 2, p. 54.

now, as it seems to me, going on to state the evidence, without producing it in evidence. As a thing opened and observed upon it ought regularly to have been followed up by being offered in evidence; if it is not, it cannot be made evidence, and if it is not offered in evidence, then nothing ought to have been said of it originally, and nothing ought now to be said of it in the summing up.

Mr. *Erskine*.—When a counsel opens the case of a defendant, or prisoner, it is impossible for him to know what judgment the Court will pronounce upon any evidence he may afterwards offer, and therefore it is competent to the counsel to propose to give any evidence which appears to him to be material for his client, and appears to him also to be competent, because it is impossible for a counsel to anticipate what the judgment of the Court will be upon the relevancy or admissibility of any part of the proof. We conceived the thing to be so very notorious, having passed before your lordship, and in this court, and our client, satisfied he had laid before the jury sufficient to maintain his innocence, did close his evidence. Undoubtedly it was our intention to produce the record of that acquittal, and we will produce it if your lordship thinks it admissible. If your lordship thinks it not admissible we cannot. I do not mean to argue the admissibility of it; however, I assure the Court I considered it so when I opened the defence.

Mr. *Gibbs*.—We offer it as proof that one of these persons, indicted upon this record, has not been guilty of the conspiracy. The charge against Mr. Tooke is that he conspired with certain others. We have not got the record drawn up.

Lord Chief Justice *Eyre*.—Drawn up!—I do not apprehend you need be under any difficulty about that, because I think the course in this court is to read the minutes. Is not that so Mr. Shelton?

Mr. *Shelton*.—Yes.

Mr. *Gibbs*.—The ground upon which we submit it is evidence, and we should have offered it before, is, that Mr. Tooke is indicted for conspiring with certain other persons, of whom Hardy is one; by this we offer to show that Hardy has not been guilty of that conspiracy, and that that part of the charge against Mr. Tooke has not been proved.

Mr. *Tooke*.—I beg your lordship's pardon, but I am bound to say just one word to justify my counsel, whom I have brought into this situation, by closing my evidence without consulting with them, and to excuse myself for having so done. Your lordship cannot but recollect the nature of the cross-examination of one or two of the last witnesses, and I was very anxious, for that reason, to cut short my evidence at once. I have left out a great deal of evidence upon a great many points that I should have otherwise produced. Mr. Attorney General asked the witnesses to facts which they knew nothing of, and which he was aware they knew nothing of, for when they said so, Mr. Attorney General always said he thought so. Perceiving that it would be impossible I should ever stop, I certainly closed my evidence a little too abruptly, and I beg pardon of my counsel and the Court, if I have brought them into a situation which I should not have done.

Mr. *Attorney General*.—Notwithstanding Mr. Tooke has closed his evidence too early, he has my consent, as far as that will go, to offer any thing he pleases in evidence. With respect to this evidence of the acquittal of Hardy, I have no objection in the world to that—I leave it to the Court.

Lord Chief Justice *Eyre*.—I think you do right Mr. Attorney General in not pressing any objection, the ground of the Court is somewhat different from that which has been stated at the bar. The acquittal of Hardy has been spoken of in a general way, and may be, and probably would, by those who do not discriminate accurately, be carried much farther than it ought to be carried in point of effect, and that is always the consequence of talking of matters which are not in evidence, because till they are in evidence, the Court can take no notice of them, and the Court cannot properly point out to the jury to what purpose such an acquittal may be applied as evidence, and to what purposes it ought not to be applied. The Court must say, if it were not in evidence, however utterly impossible it may be for any set of men perfectly to attend to it, the Court ought to say, that the jury should not even know that Hardy had been acquitted; that they should lay the whole subject entirely out of their consideration, which is perhaps asking men to do more than men could do, and therefore it is much better that it should be regularly in evidence, and that its true bearing should be seen.

Now the point to which it seems to me it may properly be evidence, and to that point only, is as far as the acquittal of Hardy will go, to contradict the evidence that goes to fix upon Hardy, particularly, the being a party in this conspiracy. There is a great deal of evidence that goes to that, which has been made use of, and which has an application beyond Hardy, but as far as it directly points to Hardy, to be sure it is, as it seems to me, an answer to that evidence, that Hardy stands acquitted; and it is for that purpose, and in order that the true bearing of it may be seen, that I have put you in mind that the evidence should be offered, and if admissible, should be admitted, in order that it may be exactly seen how far it really does apply; and Mr. Attorney General has, with that candour which has distinguished his conduct throughout the whole of the proceedings stated, that he does not object to the evidence being offered. I think it is convenient for the purposes of justice that it should be offered.

Mr. *Gibbs*.—It will then be in evidence,

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that Mr. Hardy has been indicted for the same conspiracy, and acquitted.

[The minutes of the acquittal of Thomas Hardy were read by Mr. Shelton.]

Mr. *Gibbs* [afterwards Lord Chief Justice of the Court of Common Pleas].—Gentlemen of the Jury; It now becomes my duty to observe to you, upon the case which is supposed by the gentlemen, who conduct this prosecution, to have been made out against Mr. Tooke; and in order to render that case, and those observations which I shall make upon it, most intelligible, I think the better way will be for me, in the first place, to state to you what I conceive the law to be, as applicable to the facts charged upon Mr. Tooke, and then what those facts are, and how that law applies to it.

Gentlemen, with respect to the crime charged upon Mr. Tooke, you can no where find it better than by looking into the authority of the court, before which this indictment was found, and observing to what crimes its jurisdiction extends. This you will find described in what is called the caption of the indictment, which I have in my hand—by that caption, as extracted from the commission under which the Court sat, it appears that the justices before whom this indictment was found, had authority to inquire of high treasons, in compassing or imagining the death of our lord the king—that is the only part of their jurisdiction which can apply to the present case; and, therefore, I am justified from that alone in saying, that the only question for your consideration, at least one question, without finding which in the affirmative, you cannot convict the gentleman who stands at your bar, is, whether he has compassed the king's death—that is the only treason as applicable to this case, stated in the commission under which the indictment was found; and though the gentleman at the bar had been guilty of twenty other acts of treason, wherever he might be answerable for them, he would not be answerable in this court.

Another place, gentlemen, in which we may seek the crime imputed to the prisoner, is the indictment itself. That indictment charges, in the first place, the treason—and in the next place, it charges the overt-acts, by which it is insisted, that that treason is proved. The treason charged against the prisoner in that part of the indictment which must, as it does, contain the crime imputed to him is, that he has compassed to bring our lord the king to death; and this is the only material charge in that part of the indictment, for I am sure that the court will go along with me when I say, that if every thing else had been omitted but that part of the indictment, and nothing had been stated, but that the prisoner compassed the king's death, the indictment would be good.—If every thing else had been left in the indictment, and that part of it which charges, that he had compassed the king's death had been omitted, the indictment would have been bad; therefore it follows as an irresistible conclusion, that the only material charge in this indictment, against Mr. Tooke is, that he has compassed the king's death.—But the indictment must go farther, it must charge overt-acts by which he has endeavoured to bring about this design, conceived by him, to put the king to death.—It does charge several overt-acts which it is not necessary for me to state to you particularly; but thus much I will observe, that in the introduction of every overt-act, the indictment states, as it must state, and it would be bad if it did not, that "to fulfil, perfect, and bring to effect the treason before mentioned;" that is the compassing the king's death, Mr. Tooke committed the acts charged against him: if the indictment had not stated that these acts were committed for the purpose of bringing about the king's death, the indictment would be bad—it follows of course, therefore, that you have to try, not only the existence of those acts that are stated as overt-acts, but likewise their tendency, and whether they were committed in prosecution of that formerly imputed treason, the compassing the king's death.

Gentlemen, the acts themselves charged against the prisoner, are chiefly, that he agreed with others that a convention of the people should be held in this country; which convention, when drawn together, was to act against the government of the country, and to depose the king;—there are other counts stating a general conspiracy to overturn the government, and to depose the king. I take, therefore, the sum of the charge against the prisoner to be this—that he has compassed the king's death, and in order to effect that purpose, has done certain other things with a view first to depose the king, and by means of that deposition of the king, ultimately to produce his death. This is the treason stated upon the indictment, and the only treason as applicable to a case of this sort which could be stated there.

I have hitherto insisted, from the authority given to the court before which this indictment was found, and from the charge in the indictment itself, that the facts for you to try are—first, whether the prisoner compassed the king's death; secondly, whether he committed those acts that are charged upon him in the indictment; and thirdly, whether he committed them in prosecution of this design. I proceed now to the statute upon which alone this indictment could be framed, the statute of 25th Edw. 3d, passed in what my lord Coke calls a blessed parliament, because it secured the subject from those charges of constructive, obscure, and undefined treason, to which he was before exposed, and laid down a certain and unerring path by which he might in future direct his conduct, and following which he was sure of not being in-

trapped by that which I am sorry to say in those early times, was a state engine of persecution—an indictment for high treason.

With this view the statute of 25th Edw. 3d was passed. It begins with reciting the mischiefs I have stated; it recites that divers opinions had been before that time entertained in what case treason shall be said, and in what not; and therefore, the king, at the request of the Lords and Commons, makes a declaration in the manner as hereafter followeth. Then the statute goes on (I need not state the whole of it) to say what shall be treason as attaching to the king's person—"That is to say, when a man doth compass or imagine the death of our lord the king, or our lady his queen, or of their eldest son and heir, and thereof be provably attainted of open deed by the people of their condition." Now, gentlemen, you will observe that before this statute was passed, treason was a crime undefined by the statute law; when a man was indicted for high treason, and a jury impannelled to try him on that charge, they knew not, until it was explained to them from the bench, of what high treason consisted; they must, therefore, learn from the Court what was the crime imputed to the prisoner; but, after that statute, this ceases to be the case, they learn now from a higher authority what high treason is; by this statute every branch of high treason is specifically pointed out to them; that, therefore, which before was a matter of law in the breast of the judges, becomes by virtue of this statute, a matter of fact in the breast of the jury, and the statute points out to them what facts shall constitute high treason.

But, gentlemen, the makers of this statute were aware how difficult it was to guard the subject against unjust prosecutions for treason —one might have thought that having pointed out what should be the offence, if it had not been a very, very crying oppression indeed, one might have thought that the makers of the statute would have supposed that sufficient for the security of the subject; but they have not done so; they knew what an engine of oppression prosecutions for high treason were made; and, therefore, in their solicitude for the security of the subject, in the anxiety that he should not in future be exposed to vague and loose charges of treason, the statute goes on expressly to prohibit the considering any thing as treason, except what is contained in this statute, the words to which I allude are these—"And it is to be understood, that in the cases above rehearsed that ought to be judged treason, which extends to our lord the king, and his royal majesty, &c. and because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is recorded that if any other case, supposed treason, which is not above specified doth happen before any justices, the justices shall tarry without any going to judgment of the treason till the cause be showed and declared before the king and his parliament, whether it ought to be judged treason, or other felony."

You see here is an express prohibition to the courts, from a suspicion entertained at that time that future courts might act as preceding courts had done. Here is an express prohibition to them to go out of the words of the statute, and to adjudge any thing to be treason, that is not above specified.

Now we have got three steps. We have got the commission under which the Court sits; we have got the charge against the prisoner, as contained in the indictment, and we have got the statute itself under which that commission issued, and upon the authority of which this indictment is drawn.

The next thing we have to go to, is the opinion of learned men of the profession of the law who have construed this statute. We know of none more learned than my lord Coke; he has always been called, as my learned friend, Mr. Erskine, said in his opening, "The Oracle of the Law." Let us see what he lays down as the rules by which this statute should be construed. My lord Coke's third Institute is a comment upon this statute, and in commenting upon the words— "If a man shall compass or imagine the death of the king," he says, "And if it be not within the words of this act, then by force of a clause hereafter mentioned, it cannot be adjudged treason until it be declared treason by parliament, which is the remedy in that case."

I told you, gentlemen, that it had been foreseen by the legislature, that as judges who had sat before the making of that statute, had construed that to be treason which was not so, so those who followed might endeavour to do the same thing. In truth, gentlemen, notwithstanding what I have stated to you of the express definition of treason in that statute; notwithstanding what I have stated to you of the prohibition to judges to hold any thing to be treason that is not there specified, the same conduct was pursued by judges after that time, and it was necessary to pass another statute, for the purpose of bringing back the law to the rule laid down by the statute of 25 Edward 3d, and accordingly there was passed, in the first year of queen Mary, another act, stating that these grievances had existed, and expressly prohibiting that extension of authority again in the judges, and enacting that only such as were declared and expressed to be treason and petit treason in that act, should hereafter be considered as treason. So that you see here is the act of the legislature in the 25 Edw. 3d: here is the act of the legislature in the 1st of Mary, re-enacting that act, correcting abuses that existed between the making of that act, and the act I am now observing upon, and bringing back the law to that which the 25 Edward 3rd had established, namely to

the simple act (as far as applies to this case) of compassing the king's death.

Gentlemen, this statute likewise lord Coke comments upon, as well as the other; the words which I read to you from the statute, were "that nothing should be considered as treason that was not specified and expressed in that act." Lord Coke comments upon the words "specified and expressed"—"this word specified," he says, "is to be specially observed, for it is as much as to say particularized, or set down particularly, so as nothing is left to the construction of the judge, if it be not specified and particularized before by this act." Then you, gentlemen, have nothing to try, their lordships can hold cognizance of nothing but that which is specified and expressed in the statute of 25 Edward 3rd, and nothing is specified and expressed in that statute but the treason of compassing the king's death; we have had the authority under which the Court sits—the indictment—the statute—the construction of the first lawyer of this country upon that statute, expressly stating, that there is no treason that can come under your cognizance in this charge, except the compassing the king's death, and that that is the act which you have to try.

Now let us see what has been the conduct of the ablest judges of this country sitting in judicature. I could refer you to many cases upon that subject, but will confine myself to one, because that speaks for all, and it existed at a time when no favour was shown to persons charged with the crime of which Mr. Tooke now stands accused; I speak of the trial of lord Russell,* in the time of Charles 2nd. Lord Russell was tired before my lord chief justice Pemberton,† as wise, as learned, and as able a judge as ever adorned the bench. The treason charged against my lord Russell was, that he had compassed the king's death; that is the treason charged against the gentleman at the bar; the overt-act charged against my lord Russell was, that "to fulfil and effect his most horrible treasons and traitorous compassings, he with others, did meet together, consult, agree, and conclude insurrection and rebellion to move and stir up against our lord the king of this country, and to destroy the guards appointed for the preservation of the king's person." The overt-act stated was a conspiracy to raise insurrection and rebellion against the king, and to seize the guards appointed for the preservation of his person; that, you see, gentlemen, is as strong an overt-act as can be stated; and if that overt-act had been treason of itself, without considering it as connected with the treason charged in compassing the king's death, so my lord chief justice Pemberton in summing up the case to the jury would have told them.

Now let us see what lord chief justice Pemberton does tell them. The charge you see is compassing the king's death; the overt-act is conspiring to stir up rebellion against the person of the king, and to seize those guards that were appointed for the preservation of his person. Lord chief justice Pemberton in summing up to the jury tells them, that the question is not whether lord Russell did conspire to seize these guards, and to stir up insurrection and rebellion in the kingdom; he does not state that that would be treason, but he says—"The question before you will be, whether upon this whole matter, you do believe that lord Russell had any design upon the king's life, to destroy the king, or take away his life, for that is the material part here; it is used and given you by the king's counsel as an evidence of this, that he did conspire to raise an insurrection, and to cause a rising of the people." The conspiring to do that, you see, was left only as evidence to the jury, from which they were to conclude, whether the prisoner embraced in that conspiracy a design to bring the king to death, so that the overt-act is considered as evidence of the treason, which treason is compassing the king's death. He goes on—"That he did conspire to raise an insurrection, and to cause a rising of the people, to make as it were, a rebellion within the nation, and to surprise the king's guards, which, say they, can have no other end but to seize and destroy the king," evidently showing that if they did not think that was the end, it was not high treason. And he adds—"And it is a great evidence;" and I think it was a great evidence—It is a great evidence, if my lord Russell did design to seize the king's guards, and make an insurrection in the kingdom, of a design to surprise the king's person;" but it is only an evidence. Lord chief justice Pemberton puts it as an evidence to the jury of his entertaining in his heart a design to bring the king to death; and if he had not that design, it evidently appears from the manner in which he puts this case, that in his judgment it was not high treason.

"Upon the whole," he tells the jury, "this matter is left to you; if you believe the prisoner at the bar to have conspired the death of the king, and in order to that to have had these consults that the witnesses speak of, then you must find him guilty of this treason that is laid to his charge." * So I say with respect to the gentleman that now stands at your bar, in the words of that venerable and learned judge, my lord chief justice Pemberton; if you should believe, upon the evidence produced to you, that the prisoner at the bar did conspire the death of the king, and in order to do that, in order to bring about the death of the king, that he had these consults that the witnesses have spoken to; then I say that you ought to find him guilty; I, his counsel, say so; but I say like-

* See Vol. 9 of this Collection, p. 577.

† See Vol. 9, p. 580.

* See Vol. 9, p. 636.

wise, armed with more than the authority of a counsel, armed with the authority of a judge, because I speak out of the mouth of a judge, that if you do not find that he conspired the death of the king; if you do not find that in order to bring about that design to kill the king he held these consults which are proved in this case, then you must acquit him of this charge, and I say this, as I said to you before, not with the authority of an advocate, but with the authority of a judge, because I repeat to you the words of a most learned and respectable judge, in a similar case.

Gentlemen, so appears to me to be the law, under which the prisoner, at your bar, stands upon his trial: it will not be necessary for me to discuss that nice point, whether, if you shall believe him to have been guilty of a conspiracy to depose the king, it follows, as a matter of law, not of fact, that he is guilty of compassing the king's death; because I defy any jury, upon the evidence that has been produced, to find the gentleman at the bar guilty of conspiring to depose the king; but thus much I must say, that when that point is brought, if ever it shall be brought, before the Court, I do verily think, if there are decisions, which I do not know that there are, but if there are decisions which state it, as a conclusion of law, to be drawn by the Court, not an inference of fact for the jury, that a conspiracy to depose the king involves in it a compassing his death, the Court will then have to decide between the authority of those decisions and of the statute itself; for I think it impossible to support those decisions by the statute.

My apprehension of the law upon the subject, I make no scruple to state it precisely, is this; that there are three things for the jury, and one for the Court to determine. The first question for the jury is, as I apprehend the law, whether the prisoner compassed the king's death. The second is, whether, in point of fact, he committed the overt-acts that are laid in the indictment. The third is, whether these overt-acts had a tendency to the bringing about that treason, which must be first charged, the compassing the king's death. These appear to me to be the three considerations for the jury, in all cases of this sort. There is a consideration for the Court likewise: whether the overt-act, that is stated in the indictment as committed by the prisoner, with a view to bring about the death of the king, be such an overt-act as satisfies the statute: but after the statute has, in point of fact, defined and stated what shall be treason, and that there must be an overt-act committed, in prosecution of the treason imputed to the prisoner; that seems to me to be the only thing which is left for the Court.

Having dwelt much longer than I intended upon this part of the case, and disposed of the law which arises out of it, I come now to the fact.

Gentlemen, the charge against the prisoner, upon the indictment, is, that he compassed the king's death; that he agreed that a convention should be held, for the purpose of overturning the government, and deposing the king, in order to effect that purpose of his against the life of the king; and I do not mean to conceal that there are other counts in the indictment, imputing to him a design of accomplishing the same end, not through the medium of a convention, but by means of a general conspiracy. These are the charges in the indictment.

The solicitor-general, in opening this case to you, states in terms what he attributes to the prisoner, and I am willing to meet him upon the charge as he states it, he says—"I attribute to the prisoner a conspiracy to depose the king, and to do this by his own force, or by the force of those employed by him." Then laying indictment, and statute, and every thing else out of the case, the avowed charge against the prisoner is, that he conspired to depose the king, and that he meant to do this either by his own force, or by the force of those who might be under his control, and whom he might direct; that is the object imputed to the prisoner by those who conduct this prosecution. We, on the other hand, say, that this never entered into the mind either of the prisoner at the bar, or of any of those who ever had any communication with him: we say that he had an object which he proclaimed to the world, which he communicated to his friends, whom in the hours of confidence he conversed with, and which, through the whole course of his life, he has uniformly and steadily pursued; that object we say was a Parliamentary Reform, and that a Parliamentary Reform was his real object, after the evidence that has been given in this case, it is impossible for any rational being, for a moment, to doubt.

The question is, whether Mr. Tooke has conspired to depose the king by force, to be used by himself, or by others, who were to be under his control. The primary instrument stated upon this indictment, and which they endeavoured to prove that he meant to use for that purpose, was this convention; the resolving, with others, to call this convention, is stated as an overt-act committed by him, in the prosecution of his primary design, to depose the king, and, his ultimate design, to bring him to death.

Now, gentlemen, let us examine, in the first place, the nature of this, which is considered as the overt-act, out of which, and other facts stated in the case, you are to connect this design of Mr. Tooke to depose the king, probably to set himself in his place, and likewise to do this by force. It is proved to you that, on the 28th of March, a letter was received by the Constitutional Society, of which Mr. Tooke was certainly a member, from the London Corresponding Society, proposing to the Constitutional Society that they should concur with them in certain objects.

Now let us see what these objects were:—"Whether you concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we, at present labour; and which can only be effectually removed by a full and fair representation of the people of Great Britain;" and then there were certain resolutions added to this letter:—"That equal laws can never be expected but by a full and fair representation of the people; to obtain which, in the way pointed out by the constitution, has been, and is, the sole object of this society;" and "that a convention of the people by delegates, deputed for that purpose, from the different societies of the friends of freedom, assembled in the various parts of this nation, shall be called."

The Constitutional Society agree that it is fit to send an answer to this letter, which proposes to them pursuing a certain plan not in itself unlawful unquestionably, "a reform in parliment by legal and constitutional means." I hope there is nothing criminal in that; certainly there is nothing of high treason: but then here is a sad conspiracy breaking out—they desire to confer—they are to confer by a committee, and that committee is to be composed of delegates. On the 4th of April there is a letter from the committee of the London Corresponding Society, acquainting this society that they had appointed five persons, who were to meet others, whom they hoped the Constitutional Society would appoint; and the Constitutional Society are to appoint a committee of conference with them, and then a great deal is to be presumed from the circumstance of this committee meeting, and not the whole society; but what would not be unlawful for the whole society to do, would not be unlawful for a certain number of those persons to do: there is no more criminality in doing a thing by deputation, than doing it in their own proper persons. So far there is nothing criminal. But the acts of these men, when they meet, are monstrous and atrocious; there comes the overt-act of treason; there is the treason itself; there is that which shows clearly and irresistibly, when disclosed, that the object of this gentleman, who agreed that this committee should sit, and who thought it would be fit that afterwards a convention should meet, that his object was first to depose the king, and, ultimately, to bring him to death.

Now what is it this committee do? Why on the 11th of April, they receive communication that the delegates from the two societies had met; that they had resolved that it was very desirable that a general meeting, or convention of the friends of liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people. So that a resolution by five men from one society, and six from another, that, in their opinion, it is a desirable thing that there should be a meeting, or convention of the friends of liberty, not for the purpose of doing any thing, but for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people, is to implicate not only the delegates from the London Corresponding Society, and the delegates from the Constitutional Society; not only the secretaries of the two societies, not only all who had any knowledge of these committees, but likewise all the members of all the societies, in a general conspiracy to depose the king, and ultimately, bring him to death! There is the hinge of the cause; this is the overt-act upon which they rely, as showing that Mr. Tooke, and those others with whom he was concerned, had conspired to depose the king, in the first instance, and, by means of that deposition, to bring him to death.

But, gentlemen, it does not end there; there is more of mischief, more of conspiracy, and more of treason behind.—The society for Constitutional Information, when these acts of the delegates of the two societies are brought before them, deliberate upon them; they read these resolutions, they consider what shall be done with them, nay, they had a debate upon them, and the debate is upon the word *convention*; it was thought by some that the word convention might give offence even to well designing, but ill judging, and weak minds; and therefore some were of opinion that it would be better to leave out the word convention, and let the word *meeting* only stand; others thought, and they thought rightly, that meeting and convention signified the same thing, and it did not signify whether it was called both, or either; however, upon the whole, they thought that if there were doubts upon the subject, it was better to omit the word convention; and therefore the Latin word *convention* was omitted, and the Saxon word *meeting*, which is now our English word, was suffered to stand. All these things were entered in the books of the society, and a mark drawn round the words, "or convention," in order to show that as it was entered in the books of the society, the words "or convention" were to stand, as containing an account of what was reported to the society by the committee of both societies; but as containing an account of what the Constitutional Society agreed to, the words "or convention," were to be omitted; and thus ends the whole mystery of the words "or convention" being inserted. But this is not all; there is something behind; you know when there was treason on foot, as activity was to be exerted, and measures were to be taken for overturning this government, and for setting up anarchy in its stead, some force was required, and therefore they begun to muster, and they appointed prime ministers, they appointed a cabinet, they appointed a committee of co-operation of both societies.

Now, gentlemen, if you will please to look back to the resolution that was reported to the society, you will see what the real object of this committee of co-operation must have been; they report, "That it is desirable that there should be a meeting, or convention, of the friends of liberty, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people;" and then here is a committee of co-operation appointed by the two societies, for the purpose reported to be desirable, to be sure; for the purpose of considering what were the best measures; for the purpose of considering how that end, which was before reported in one of those resolutions to be desirable, should be carried into effect: this is the construction we give to it; this is the fair construction of the words; this is the fair construction, which I am instructed to say to you, every man who has had any communication with the society did put upon it. But no, say they, on the part of the prosecution, this committee of co-operation was for the purpose of preparing to carry into effect that horrible conspiracy, which they had devised, of deposing the king.

Gentlemen, you cannot, I confess, find out what men's intentions are by their declarations before-hand, but, I think, there is no better way of judging of them than by seeing what their acts are after the resolutions are come to; a great deal, you see, rests upon the actions, exertions, and energy of this committee of co-operation. I think the purposes of the committee of co-operation are plainly pointed out by the preceding resolutions; but the gentlemen, on the other hand, say, that they are all a pretext, and that their object was to carry into effect, at least, the conspiracy to depose the king.

Now let us see what they did. They were appointed to meet on the 11th of April; the first man who was arrested in either of these societies, Mr. Hardy, was arrested on the 12th of May; there passed, you see, more than a month, and yet this active, this powerful, this energetic body; this body that was to act for all the rest; this body that was to carry into execution all the treasons that were in the minds of the others, never did one single act throughout the whole of that space of time,—which was more than a month,—from this time, when their meeting was appointed, to the time at which the first member of the society was arrested. Why, gentlemen, have you credulity for this? Have you faith to believe that a society, which appointed a committee of co-operation, who, according to the judgment of all, if there was any thing of treason, was pursuing the measures by which that treason was to be carried on, can you believe that that society had treason in its heart, when the committee, appointed to carry it into execution, remained silent and inactive for more than a month, doing nothing, and, I verily believe, not knowing what it had to do?

Gentlemen, this, they say, may be true; this, we admit, was all that appeared to the public, but, although these people did certainly always hold out to the world, and hold out in their own resolutions, that their object was to obtain a parliamentary reform; although the resolutions of this committee of delegates, appointed as I have stated to you, reported that to be their object; although this committee of co-operation took care to do nothing for a month, yet there is a great deal more in this than meets the ear; they were long-headed men; and though, like lord Burleigh, in the Critic, they are brought upon the stage, and stay there for a considerable time, and do nothing but sit in an arm-chair, and shake their heads, yet there is a great deal more in the matter than you suppose, and we will show you that there is so; there is a great deal in that sitting inactive, for more than a month; there is a great deal more of activity than a man of only common sense can find out, and we will prove it; and I admit that they do endeavour to prove it; and I admit likewise, that they endeavoured to prove it, by the only witnesses who, if it existed in fact, could prove it. If any man in this kingdom could prove the fact that they impute to Mr. Tooke, the witnesses whom they have called are the men, and the attorney-general acted with his usual honour in calling them; he thought it fit that the whole case should be communicated to the jury; he knew as I know, he felt as I feel, and as you feel, that upon the face of this there was nothing in it; he felt, likewise, that those who were concerned in the transaction must know what they meant—he felt that the crime here was in the meaning, and therefore he determined to bring before you those witnesses who were concerned in the transaction, who knew what their own meaning, and the meaning of those with whom they were concerned, was; and who would most unquestionably, when called by him, communicate the whole truth to you, and they have done so.

They call to you first the man, whom one may well consider as the certain repository of this great secret, the secretary of that society to which Mr. Tooke belongs, namely, Mr. Adams; one object that they have to make out, according to the law, as I have stated it to you, and according to the charge against the prisoner, as stated to you by the solicitor-general, is, that he meant to depose the king, and to do this by his own force, or by the force of some others who acted under him—one necessary part of their case was to show, that they were prepared to assemble themselves in arms, and that they had provided themselves with all requisites necessary for furnishing out an army.

My learned friends knew money to be the sinews of war, and that nothing could be done without it—they therefore call the secretary and banker of this society, Mr. Adams and he is questioned as to what those funds

are, by which the expense of this armament was to be defrayed; he tells you, that the whole revenue of his society was sixty guineas a year; that the ordinary expenses were fifty guineas; so that there remained, after all expenses were paid, after all the officers of state were satisfied for their salaries; after the expense of candles, and all expenses of that sort were discharged, there remained a surplus of ten guineas, towards overturning the government of this country, and providing an army, whereby it might be overturned!—a great deal of money, to be sure, but they had not even the whole of this ten guineas, for, upon the cross-examination of the secretary, he says, that though the expenses of the society were only fifty guineas, and their revenue sixty, yet he generally was obliged to be in advance, so that it could be only by issuing letters of credit, by issuing bank-bills from the society, that they could pay their troops out of these ten-guineas; for you see, the secretary, being in advance, the ten guineas were not forth-coming.

It will be said, perhaps, that this was, to be sure, all the money which they had in the Constitutional Society, but there were other societies that had more; that the Constitutional Society was not the society relied upon—but, we all remember, that the Constitutional Society is the society held up to the world, as possessing those funds from which the other societies were to draw—all those unknown traitors that are stated upon the record—all those men into whose acts the attorney-general, and the solicitor-general, in their evidence, have gone so largely—they were all poor dogs; these were the rich men, these the people who were to support them—these were the bank-holders, these were the men in the possession of that which alone can support any thing of force in this country, and therefore, I never can be told, that if there was not money here, there was money any where else; for if this great national fund failed, there was nothing, and then they were to go to war without money, and I think, it appears, without men, for there has not been any proof in the cause, that a single individual had been spoken to, who, for love, was to undertake this cause; therefore, there is not any proof in the cause, either that any force was secured, for the purpose of undertaking the conspiracy which they say was in agitation; and there is no money in the pocket, by which those who might hereafter be induced to undertake it, were likely to be brought to it. So much for the funds of this society.

Scotland, you know, is a cheap country, and my learned friend knows that it is, he assents to it: a man can live in Scotland a great deal cheaper than he can in England? and a great deal of money would not be necessary to support him during his residence there; and yet, so poor was this rich society, so destitute was this fountain from which all the other societies were to draw, that they could not find money enough even to support a delegate, whom it was in contemplation to send to the Convention at Edinburgh; for, when a parcel of individuals had elected one Yorke* as a delegate to the British Convention, at Edinburgh, the whole society could not raise money enough to support him in that cheap country, and therefore he refused to go.

But, gentlemen, there may be arms to be put immediately into the hands of all the members of all these societies—there may be a preparation to arm them against the government, on a sudden; and the prosecutors will say, though in the course of the business of this conspiracy for a convention, they have not proved any thing that fixes direct criminality upon the prisoner—from the proceedings, as they appear from the books; yet the secretary, this man who is in their secrets, he would be able to prove to you, probably, not only what their objects were, but likewise what means they had of accomplishing these objects. If there was any preparation for arms—any muskets—any pikes—any hand-knives prepared, for the purpose of carrying this great design into execution he knows it, and he will tell you of it—he is questioned to that; I forget whether the gentleman on the other side, or we, asked him, but he was asked, whether he had ever heard, during his continuance in this society, from the time he entered into it, till he left it, during his attendance on any committees, in his conversation with any member, whether he had ever heard a single mention made of any arms which were to be put into the hands of any of those societies, or of any force which any of them were to use; and he tells you, in direct terms, that he never heard any thing of such a matter; that he never had any suspicion of it; that he was constantly present at all their meetings; that never a hint was given from any individual in any of the societies, of any such intention—that communicating with the members, and the societies themselves, he never heard from any one of them a hint dropped to this purpose—that, being intimately connected with Mr. Tooke, he knows, as he believes, his secret thoughts; he was connected with him in such a way, that if he had any secret thoughts on this point, which it was not his intention to have communicated, it is hardly possible that, at some unguarded hour, they should not have burst forth; he tells you he never heard, believed, or suspected, or had reason to think, that any other person knew, believed, or suspected, that there was a design in the society, or in any individual member of the society, or in any other person connected with them, ever to act with force against this government, much less to prepare themselves with sufficient force, for the purpose of acting personally against it.

* See his Trial, A. D. 1795, *infrà*.

But, gentlemen, there might be another thing; there might be another ingredient in this cause, which would serve it, I think, better than any other that they have attempted to have recourse to—there might have been a secret committee, and if they could have established to you, that there had been a secret committee in this society, then it would have been argued, with great strength of reasoning, that this secret committee concealed from all the world, all that it intended, and all that it did; but even that argument is shut out from this case, for, when Adams was asked, whether they ever had a secret committee in this society, he says, no, we never had any such thing, all our proceedings were open and public; nothing was done that all the society did not know; nothing was done that we had any objection to all the world knowing, the greatest part of it we have published in the newspapers, and we had no objection to its being there published —so much for the secret committee.

Then there was a committee of correspondence; I admit that fact stands against us; there existed in this society a committee of correspondence—what sort of a committee of correspondence? A committee of correspondence that rarely or ever corresponded, and that was the subject of the constant ridicule of the gentleman who stands at the bar, because their name accorded so ill with their employment. Well, but then they say, however little we have proved, you hold out to the world, that your object was a parliamentary reform, and we are come to this issue, whether that was your real object, or whether it was a mere pretext, and we will show that a parliamentary reform was not your real ob-object, and then they would infer, not justly I think, but they would infer from thence, that because a parliamentary reform, which we held out to be our real object, was not so, but a mere pretext, therefore we are conspirators against the government. I do not care if you come to that conclusion; I do not care if you fall in with the argument, that if a parliamentary reform was a mere pretext, we are conspirators against the government; not that you will suppose I mean to admit they have proved any thing like that, but I will show, if it be necessary, that a parliamentary reform was the real and sincere object of the gentleman at the bar, and of all those with whom he acted, at least as far as their intent can be known; that he had no other object, and that it was not a pretext.

I said, gentlemen, that I would show this, if it were necessary, but it is not necessary, because the prosecutor has shown it for me; for he, in calling those men who he knew were all acquainted with the objects of the society, put the cause on the issue of their testimony; they were questioned, "Do you know what was the real objects of this society?" Adams, who was their secretary, was questioned to that point, and he tells you in terms that, from all that he ever saw, from all the conversation that he ever had with any of those people, he verily believes that their real object was parliamentary reform, and that a reform was not a pretext; he says, that all his conversation with Mr. Tooke (it was not necessary to question him so particularly as to the others) tended that way, and had that sole end. And being asked about some expressions of what great end that was towards which they were to co-operate, which was mentioned in some of the resolutions, and upon which it seemed that stress was laid, he tells you, that the great end was a parliamentary reform—then they have failed in every part of their case where they ought to have been the strongest. They call Mr. Adams the secretary of the society, who must have known, not only the acts but the intent of the society; and he expressly negatives these two material parts of their case, which they have insisted upon, that parliamentary reform was a mere pretext; that their object was to overturn the government and depose the king; and, that their intention was to employ force for the purpose of doing this.

But, gentlemen, Mr. Adams is not the only witness upon this subject; it was a main object with them to show, that here was a wicked wide-spreading conspiracy against the government; that it was not confined to these committees; that it was not confined to these societies in town, but that all the country societies were connected with it; and for that purpose they have produced, I know not what—letters and addresses from country societies; some received in London; some, I believe, for the purpose of showing that these persons at Sheffield, Norwich, and other places, were connected with Mr. Tooke, and were conspirators with him for this great end. The indictment states, that Mr. Tooke and the others conspired with those who are named in the indictment, and with other persons unknown (these Sheffield people, therefore, and the rest, are those unknown conspirators.) And it was a step, in this case, to prove that the people at Sheffield had these views; from whence it was to be inferred, that if they, being conspirators with Mr. Tooke, had those views which are imputed to Mr. Tooke, Mr. Tooke had them; and accordingly they call a witness, from Sheffield, a Mr. Broomhead, the secretary to the society at Sheffield.

Gentlemen, the same observations occur upon his evidence as to the Sheffield Society which occur upon Adams's as to the London Society.—He is questioned as to what the real objects of the Society at Sheffield were; he, the witness for the crown, who was to prove that the Sheffield people were conspirators with Mr. Tooke and the others to overturn the government, he tells you the real object of these people at Sheffield was a

reform in the House of Commons, and no other; that they had not the smallest notion either of attacking the person, authority, or character of the king; of attacking royalty itself, or of attacking the nobility of this country; that their complaint was against the House of Commons; that they believed the constitution was endangered by that corruption which they thought existed in the House of Commons; they thought the remedy of that evil was a reform in the House of Commons; that they looked to a reform in the House of Commons, and in no other place, and that this was the sole object of their society: that with respect to producing even that reform by force, no idea of the sort ever entered into his mind, or into the mind of any of those people whom he knew at Sheffield; that if he had believed such a design had existed in the mind of any man with whom he was concerned, he would have immediately quitted the society; that he loves the king; that he is attached to the constitution; that he believes it a good constitution; that he believes it the best that does or can exist in its nature; but thinking that there are defects in all human institutions, and in a particular branch of this, namely, in the House of Commons, he believes that by a reformation in that branch it would come nearer to that state of perfection, to which he still thinks it approaches nearer than any other government under the sun. This is the evidence of Broomhead; who was called by the attorney-general for no other purpose than to show that these people at Sheffield, who are stated to be conspirators with those at London, and Mr. Tooke among the rest, had the same views with those at London. Look at the evidence, and then say, whether there be criminality in having the same views!—the views are parliamentary reform, the means of attaining it peaceable and quiet.

But having failed in Mr. Broomhead, they call Mr. Widdison. Now, Mr. Widdison is a witness who is presented to you certainly under circumstances that are not likely to render him peculiarly favourable to the cause of the Sheffield people; and he was produced to show the Sheffield people were conspirators, and had the same objects with Mr. Tooke. He tells you, he had been of opinion formerly, as the other Sheffield people had, that annual parliaments and universal suffrage were the best remedy that could be applied to that which they believed an existing evil in the constitution; upon farther reflection he altered that opinion; he thought that universal suffrage was going too far; he thought that the privilege of electing members of parliament would, by the introduction of universal suffrage, be committed to some men who were not fit to have such a trust reposed in them: therefore he differed from the rest of his society, and withdrew himself from them. Now, with this difference of opinion, and having withdrawn himself from them, you may suppose he does not give his evidence with any prejudice towards the society which he had quitted, because he differed from them.

What does he say?—He is perfectly sure that the object of the society was sincere and unfeigned; that their real object was reform; that they had no other object; that they acted upon the duke of Richmond's plan; that they wished to carry that plan into execution; that he at one time wished the same thing, but he has altered his opinion; that they were all attached to the constitution; that they loved the king. But then it is supposed that this witness from Sheffield will be able to prove that the objects of the society, such as they were, were to be effected by force; and then, if it can be fixed upon the Sheffield people, who were conspirators with Mr. Tooke and the rest, that their design at Sheffield was, to carry their objects into execution by force, Mr. Tooke's guilt is to be inferred from theirs.

Now, what does Widdison prove upon the subject of arms? and this is the only evidence in the case by which it is attempted to be proved, that there was any thing like a preparation of offensive weapons for the purpose of carrying this great plan into execution. That they thought it necessary to give some evidence of this sort, appears from their asking the question; and, from their not giving any other evidence than that which Widdison does give, I am fairly justified in concluding, that they had no better evidence to produce. He does admit, certainly, that a dozen of pike-shafts were ordered from him by one Davison; but he says, in answer to a question put to him by the prosecutor, that they were ordered for their own defence; that they had not the least idea of ever using them against the government; that such a notion never entered into their minds. Ordered for their own defence!—How could they be for their own defence? Why he tells you, there were two parties at Sheffield; that he was of one party, others of another: he tells you that acts of personal violence had been offered to them; that their houses had been beset; that they were threatened with force; and that those persons who called themselves aristocrats had said, in terms, that if an invasion happened, they (the aristocrats) would fall first upon Davison's party; and therefore this party thought it prudent, when such threats were thrown out against them, and this turbulent conduct pursued towards them, to prepare some means of defence: and upon the evidence it appears to you there were a dozen of pike-shafts ordered from this man by Davison: who tells you, that at the same time Davison ordered them, he told them they were for this purpose.

Gentlemen, if the purpose of these pike-shafts had *not* been explained, in a case of this sort, where it lies upon the prosecutor to give

some reasonable evidence to convince you that force was prepared, with which these conspirators were to act, an order for twelve pikes would amount to nothing; but when it stands explained, not as I explained it, but as the witness has explained it, even if there were ten thousand instead of twelve, it becomes totally irrelevant, because the prosecutors prove, by their own witnesses, that the preparing these pikes was for a perfectly different purpose.

But, gentlemen, unfortunate as the prosecutors have been in calling to you those witnesses, who, one should have supposed, must have known, if there had been a conspiracy in London, that it did exist—who, one should have supposed, must have known, if there was a conspiracy at Sheffield, that it did exist; unfortunate as they have been in the examination of these three first witnesses, they still think they have a strong man behind, and therefore they call him last, in order to leave an impression upon your minds — very judicious most unquestionably — therefore, the last witness they call is Mr. William Sharpe. The selection was certainly judicious; because they must have hoped to prove by him all that, which, if it existed, he must know. Consider who Mr. Sharpe is; he is a member of the Constitutional Society; in that character he must have known a great deal of the proceedings of that society: he was a member of the committee of conference; in that character he must have known all that passed at the meeting of the delegates from the two societies: he was a member of the committee of co-operation; in that character he must have known all that had passed in that committee, which was to carry into execution—which was to be the immediate agent for perfecting the treasonable purposes which existed in the minds of the rest——not only of perfecting the treasonable purposes, but he is stated in the indictment to be one of those with whom Mr. Tooke and the others conspired to bring about the deposition of the king. Now, Mr. Sharpe must know, filling all these characters himself, whether he did so conspire or not; he is, therefore, called to you, and he is examined as to Mr. Tooke's principles.

The first thing that comes from him is this —that Mr. Tooke had often declared, that he would rather be governed by St. James's than St. Giles's. Now, if there be any truth in the case that is endeavoured to be set up by the prosecutor, I should like to know by whom Mr. Tooke was likely to be governed, if this conspiracy had taken effect, except by Saint Giles's. It is not pretended, as has existed in most cases of conspiracies to overturn the government, that there was a prince laying claim to the throne, whom this party that conspired against the present government was to introduce; the end of Mr. Tooke is not stated to you; his object is merely stated to be to overturn the present government; then, if his object was to overturn the present government, and let every thing go to confusion, that government, which Mr. Sharpe says he reprobated, must be introduced and substituted in the place of the government of Saint James's. He says Mr. Tooke and he had frequent communication together upon the subject of the constitution of this country; he tells you that Mr. Tooke always spoke of the constitution with regard and reverence; he always expressed himself attached to the king and the lords, with that firm, steady, inflexible character, which is proved to belong to him and his opinions; he always spoke with detestation of what he thought corruption in the House of Commons, and always declared his firm resolution to contribute all that lay in his power to correct that abuse.

Gentlemen, the question put to you is, whether these declarations of his object being a parliamentary reform, were real, or were merely a pretext; and whether, instead of pursuing a parliamentary reform, Mr. Tooke was really pursuing a plan, the object of which was—first to depose the king, and then to destroy him. Who is likely to know whether he entertained such objects or not? Is any one more likely to know it than the gentleman whom the crown have called?—A man, connected with him in the society in which it is stated that he entertained and disseminated this doctrine—a man, put in the place of a delegate, and who was not only connected with the society, but intimately acquainted with Mr. Tooke; not only visited him at his house, but was in his confidence; and this man is questioned over and over again whether he believes this to be a pretext in Mr. Tooke, or whether he believes it his real object; he tells you, as often as the question is asked him, that he does believe it to have been Mr. Tooke's real and unfeigned object to reform the Commons House of Parliament; that his constant professions went that way, and no other; that neither in the society nor out of the society, by Mr. Tooke, or by any other persons connected with the society, was force against the present government ever thought of; and that if it had, neither he nor Mr. Tooke would ever have remained members of the society.

Then what becomes of this charge against Mr. Tooke, so disproved by those witnesses who are called to prove it? The written evidence does not prove it. The conduct of these committees, as it appears stated in the resolutions, proves merely an intention that there should be a convention; and, in order to supply that defect—in order to show that their objects were different from what they professed, and that this was a mere pretext ——in order to show, as the solicitor-general expressed it, that though monarchy was upon their lips, it was the farthest from their hearts:—in order to show all this, they call Mr. Adams, the secretary; they call Mr Sharpe, a member of the society, a member

of the committee of conference, a member of the committee of correspondence, a member of the committee of co-operation, to show that they had other and different objects; they call Broomhead and Widdison, from Sheffield, to show that the Sheffield people, charged to have conspired with them, had other and different objects; and yet all these witnesses, called in this way by the crown to support their case—called to support it in that in which it had failed before, namely, to prove that a parliamentary reform was a mere pretext, and that the real object was to overturn the government and depose the king by force;——all these witnesses were questioned whether it was a pretext: whether reform was or was not their real object; whether they had any design to act by force in any case; whether they had an affection for the king; whether they were dissatisfied with the government at large; whether it was the constitution, or only the corruption of it in the House of Commons, that they disliked: they all concur in telling you, that reform was the real and unfeigned object of them all; that it was not a pretext; that there was no design in any of them, or in any of those whom they knew, either to attack the government, or to use any force against it; that they reverenced and respected the king; that they reverenced and respected the nobility of this country; that their complaint was only against the House of Commons; that they believed corruption to exist in that House; that that corruption was the cause of the evils of which they complained, and that they would, as they had done, steadily, firmly, and uniformly pursue that which they believed would find the remedy for all their complaints, a reformation in the Commons House of Parliament.

It is no light consideration in this case, that the character given to Mr. Tooke, by all the witnesses, is that of a man adhering to his opinions firmly, steadily, and inflexibly. Gentlemen, you will recollect that a declaration of Mr. Tooke, speaking upon political subjects, has been proved, that he verily believed that if there was any tumult in this country he should be the first victim. I will tell you why he believed that; he has pursued his object of a parliamentary reform with firmness and with steadiness—nothing has called him aside from it; he has pursued it through one plain path; the consequence is, that he has been connected, in various parts of his life, with all those who have at any time had the same object in their view with him; that most of his friends have changed their opinions with the times, but that he has been inflexible in his. Hence it is, that he has no political set of friends who are constantly attached to him; because he has attached himself to no party, but has attached himself to the firm and invariable pursuit of that which he believed would be a real good if brought about, namely a certain mode of reform in the Commons House of parliament.

With this witness, Mr. Sharpe, the evidence for the crown closed; and, as far as it applies to that overt-act in the indictment which states the calling a convention (or rather, I believe, I should say, to the five or six overt acts, which are all connected with the calling of a convention), the facts that are proved are merely these—that certain committees did meet, and take certain steps towards calling a convention, for the purpose of producing a full and fair representation of the people. These are the facts that are proved, and from them you are desired to infer, that the object of this convention was, to depose the king. For the purpose of doing that, I have observed to you that they have called those witnesses, who must know what the object was—who must know whether this colour was to be given to their acts or not; instead of proving it, they have disproved absolutely every thing that is necessary towards the proof of it; for they have disproved any intent of proceeding with force; they have disproved any preparation of arms; they have disproved any intention, in any of the members of the society, to overturn the government; and they have likewise proved affirmatively that the real object of these people was that which they held out—not to depose the king, but to obtain a reform in the Commons House of parliament. So stands the case, as endeavoured to be proved on the part of the prosecutor against the gentleman at the bar; that case which charges him with a conspiracy to call a convention, for the purpose of overturning the government and deposing the king, which must be by force; and so it is stated by the attorney-general.—These are the proofs which they give you of that fact.

Gentlemen, they feel that this will not do; and they say, though this does not prove it—though these witnesses (who if the design had existed, must have known it) have sworn that no such design did exist; though they have sworn, on the contrary, that a design perfectly inconsistent with this was the real object of all these people, namely, a parliamentary reform; though, therefore, the witnesses for the crown have, as far as a negative can be proved, actually disproved the case which the prosecutors ought to prove; yet they say there are other circumstances in the case which either point this act of consulting to call a convention to the purpose of deposing the king, or, if they do not make that out, they show that there was a general conspiracy entertained, in which Mr. Tooke was concerned—a general conspiracy to overturn the government of this country and to depose the king. Surely, rather too general a statement, and too general an accusation!

In order to make out this part of their case, they read a multitude of papers; some found in the Constitutional Society, and some in the Corresponding Society, resolutions, addresses—none of which we have had any means of

obtaining access to; for even the book of the Constitutional Society was seized, and has remained in the hands of the prosecutor, from the time it was taken out of the custody of Mr. Adams—we have no means of comparing one entry with another—we have even been denied an examination of the book, I do not mean in court, for there it cannot be denied us: but while we are going on with the rest of the evidence, it was impossible for us to be looking at that which was not applicable to the point in question. With all these papers we are now overwhelmed, for the purpose of proving against us that there was a general conspiracy in the kingdom, to overturn the government and depose the king, and that Mr. Tooke, the gentleman at the bar, acted in this conspiracy—papers that took thirty hours to read in the court, and by which our attention was distracted and confounded—papers which it is utterly impossible for me to observe upon to you, because no human strength could be equal to it; some of them, in their nature, such as could never have come to the knowledge of Mr. Tooke, and some might or might not have come to his knowledge; for you recollect the way in which Mr. Adams gave an account of keeping the books, and the entries of the names, and how often it happened that men whose names, appear in the books really were not present; because if they attended at dinner their names were put down, and still remain in the books, though they did not attend the meeting; to separate them is impossible for any man—to observe upon them is impossible, in the mass and chaos in which they have been produced. I appeal to your own observation, whether, after all the experience that they have had—after all the care that has been taken to select and arrange them—after one trial has been gone through as well as it could be—I appeal to your own observation, whether there has not been infinite difficulty, even on the part of those who conduct this prosecution, in arranging, assorting, and determining what they should produce; and yet you will recollect that my two learned friends, the attorney-general and the solicitor-general, have had this business before them more than half a year—that they attended all these examinations before the privy council—that there was not a paper in all these boxes and bags that they have not read over and over again;—that we had not an opportunity of arranging and observing how they bore upon the question—what paper produced might affect the prisoner—what paper not produced might explain that which was produced—we have had no such opportunity, and yet this monstrous quantity of papers is produced here, which they scarcely know how to arrange as they are produced, and which they certainly did produce in no sort of arrangement, for they were not produced chronologically—they were not produced as one bore upon another; and from this mass of paper you are desired to infer, that there existed a conspiracy in this country to overturn the government and depose the king, and that Mr. Tooke was an actor in this conspiracy:—that is too much to call upon any man to defend another against. Many of these papers that have been read give great offence; many are very improper—are such as reasonable and thinking men would certainly disapprove of; but they are not overt-acts of high treason. If there had been any one of these papers that could be relied upon as an overt-act of high treason, it would have been so relied upon, and would have been stated as a substantive overt-act. But there is no one of those papers that has been produced which can by any possibility, with the evidence tacked to it, that is also produced in this case, amount to an overt-act of treason.

Gentlemen, let me call you back for a moment to a consideration of what the question is that you are trying. You are trying whether Mr. Tooke has compassed the king's death; you are trying whether he committed any of the overt-acts stated in the indictment, with a view first to depose the king, and ultimately to compass his death; and I affirm that there is none of that mass of paper that has been produced against him, that can be considered as an overt-act of that treason. I shall add likewise, what my learned friend argued so ably, and supported his argument from lord Strafford's case,* that if no one of these papers produced is an act of high treason, they cannot, taken altogether, amount to high treason. There is no such thing in this country as cumulative treason, there must be a compassing the king's death, and there must be a precise, distinct act stated, and proved to have been done by the prisoner in the prosecution of that design conceived by him against the king's life.

The addresses to the French were all before the war, and they are not acts of high treason. If they had been relied upon as high treason, it would have been differently stated in the indictment. The charge against this gentleman would have been not for compassing the king's death, but for adhering to the king's enemies; but the French were not the king's enemies at the time he had any communication with them, and communication, therefore, with them was lawful, and so were the subscriptions to assist them; he might lawfully subscribe to assist them. In his judgment the reformation they produced in their government, compared with its former state, was a good one; he wished the government which subsisted in France at the time he sent these subscriptions, to be supported; he had a right to send these subscriptions, and as Mr. Erskine stated truly, if peace was to be made to-morrow, the next day these subscriptions, and these addresses, might be repeated, and repeated lawfully.

* See it, *ante*, Vol. 3, p. 1381.

But a great deal has been said of the Scotch Convention; it is insisted that the sending delegates to the Scotch Convention was an act of high treason, and that the conspiring to send members to another convention which they say was to partake of the nature of the Scotch Convention, was of course in itself an act of high treason.

Let us see, in the first place, how that stands in point of fact. There was a meeting in the Constitutional Society to consider of sending delegates to the Scotch Convention; there was an extraordinary meeting held for that purpose; Mr. Tooke was desired to attend that meeting; he would not attend; two of the members called on him, and conversed with him upon the subject; he told them he disapproved of the object, that he thought it a foolish thing to send members to a Scotch Convention. It is not necessary for me to enter into the grounds of his objection, but he was an enemy to the object, and he was not present at that extraordinary meeting, which appears to have been a sort of smuggled meeting of the society, when they determined to send these members to the Scotch Convention. Then if Mr. Tooke, who was a member of the Constitutional Society, was not present at the meeting when these delegates were sent; and if so far from being present, he disapproved of the measure, and uniformly in conversation (which has been proved in various parts of the case), expressed his disapprobation of it, and stated that he was an enemy to that measure, surely it will be too much to fix him with any part of the proceedings of the Scotch Convention upon that ground. But there is another part of the business upon which they endeavoured to fix him; Yorke was proposed as a delegate, and he declined because they had no money to support his expenses. Sinclair afterwards was chosen, and he went; it stands admitted Mr. Tooke had nothing to do with sending him there, for that which is proved by the witnesses for the crown, and confirmed by others, cannot but be taken as a fact. It appears too that Mr. Tooke equally disapproved of any being sent there; but after Sinclair had been sent to the Scotch Convention; after he had sat in the Scotch Convention; after the Scotch Convention had been dispersed, and Sinclair had been prosecuted for a misdemeanor as a member of that convention, and had a punishment inflicted upon him—I say nothing upon the judgment itself; I reflect not upon the Court, it is not my business to reflect upon it, but I only say that a punishment had been inflicted upon Sinclair——

Mr. *Tooke*.—The Lord Advocate withdrew the record, and he was not tried.

Mr. *Gibbs*.—Was he then under prosecution?

Mr. *Tooke*.—I believe he was.*

Mr. *Gibbs*.—Gentlemen, I certainly stand rightly corrected, and am much obliged to the accuracy of the gentleman at the bar for correcting me; Sinclair had not a judgment pronounced against him; but it is imputed to Mr. Tooke that Sinclair, when in distress, was assisted by him; he being in very great distress, Mr. Tooke, I admit, did write a circular letter, petitioning for a subscription for Mr. Sinclair, although he had highly disapproved of his being sent as a delegate to the convention in Scotland; and because he has thrown passages into that letter, the only object of which was to excite the compassion of those among whom the letter was published, to make them draw their purse-strings; from thence it is endeavoured to implicate Mr. Tooke in every thing done in the Scotch Convention, although he actually disapproved of its sitting, and disapproved of a delegate being sent.

But I do not stop there, I will suppose that Mr. Tooke, instead of absenting himself when Mr. Sinclair was chosen as a delegate, had been present; I will suppose that instead of dissenting from sending delegates to Scotland, he had assented to it; I will suppose that instead of voting that another man might be sent to Scotland as a delegate, he had been sent there himself. I insist that nothing that has been done in Scotland amounted to an act of high treason; and I say here, as I said on the last trial for Mr. Hardy, I insist that I have the highest authority for asserting that nothing that was done in Scotland amounted to high treason, because those who where actors in that scene; those who were delegates there; those who sat in that convention; those who passed the resolutions which are now considered as the most criminal, were themselves in that country, and, no doubt, by the advice of the great officers of the crown, prosecuted, not for high treason, but for a misdemeanor.

I have, therefore, the authority of those who prosecuted them for saying that the acts of the Scotch Convention were not high treason. I have the authority of the judges who tried them for saying the same thing, because if those judges had thought that the acts committed by those persons were high treason, it would have been their duty not to have suffered them to be convicted of a misdemeanor, but to have told the jury that the nature of their crime had been mistaken, that though indicted for a misdemeanor, in fact, their crime amounted to high treason; that they must be acquitted, therefore, of the charge brought against them, but that they must be indicted again upon the other. Therefore, take it either way—either that he was or was not cognizant of those acts that passed in Scotland, I insist that the acts in Scotland were not high treason. Very improper resolutions I admit passed there; resolutions which talk of resisting certain laws when they may be passed; and yet what resistance? they say they will not regard any

* See Sinclair's case, *ante*, Vol. 23, p. 777. See also in the same Volume, p. 807, *note*.

act of parliament for dispersing the convention, until they shall be removed by a superior force—what is their conduct upon that?—I do not remember whether the letter of Margarot was given in evidence; it was upon the last trial; but, as well as I recollect, the way in which they were dispersed at last was this: the sheriff attends, the president sits in the chair, he says I hold what I am doing to be legal, you say it is unlawful; I will, therefore, never give you, out of my own mouth, an admission that I think you may legally disperse us; I think you cannot; I desire, therefore, that some force may be used, upon which the sheriff takes him by the hand, and leads him out of the chair. Now that explains the resolution that they would not obey such an act till they were removed by force. This shows what sort of force they expected; they will not admit that there exists a right in the magistrates of the country to disperse them, but the magistrates come to disperse them, they do not resist by violence, they only wish to bring it to that issue that you shall take upon yourselves the legality of the act, and if you do disperse us, you shall disperse us by that which we call force. But I care not what construction you put upon the act; put what construction you will upon it, it is not high treason; and in support of that assertion I will refer the Court to a case, the authority of which has never been disputed, the law laid down by lord chief justice Holt on the trial of sir John Freind; he states there, in precise terms, what sort of war that is, a conspiring to levy which is high treason, and what sort of insurrection that is, a conspiring to raise which is high treason.

It was insisted by sir John Freind that a mere conspiracy to levy war, did not prove the compassing of the king's death, and, therefore, was not treason. Lord chief justice Holt says, "The statute has been read, but, says sir John Freind, there is no war actually levied, only a bare conspiring or design to levy war, which does not come within the idea of rebellion; but if the conspiracy be either to kill the king, or depose him, and there is a consultation or conspiracy to levy war for that purpose, it is high treason." Speaking afterwards of insurrections, he says, —"If persons do assemble themselves, and act with force in opposition to some law which they think inconvenient, hoping thereby to get it repealed, this is levying of war and treason, but the purposing and designing to do it, is not so." Then suppose a law actually to exist which a man, or any body of men, think inconvenient to themselves, if they take up arms, if they raise an insurrection for the purpose of opposing that existing law, that is high treason, that is levying war against the king; but if they merely propose to do so; if they merely consult how they may raise an insurrection to oppose an existing law, that, according to the doctrine of this case, which never has been shaken, and which is adopted by Mr. Justice Foster, in his book, that is not high treason. Going on, he says, "When men endeavour in great numbers, with force, to make some reformation of their own heads, to make a reformation in the government, of their own heads, without pursuing the methods of law; that is a levying war and treason, if they actually do it; but, the proposing and designing it is not so."* Then compare that with this resolution in Scotland, does it come to any thing more than a purpose and design, that, if a certain law should be passed, they would resist it.

Now I would suppose, for argument's sake, (though I do not admit it in point of fact), that they meant to resist it by force, even if they did mean to resist it by force, the consulting how they should raise an insurrection to resist it by force, if it was an existing law, would not be high treason, much less to consult how they may resist a law which has not yet passed; so that, reasoning *à fortiori* from this case of sir John Freind, giving the fullest effect to this proceeding in Scotland, it is impossible to implicate those that come to that resolution in the crime of high treason; they were prosecuted only for a misdemeanor; but the object is, to implicate persons who only sent delegates to this society in high treason (not that I agree that Mr. Tooke did so) though the delegates themselves were prosecuted only for misdemeanors, and that upon the best of all grounds, because, in point of law, the act they did was not an act of high treason, inasmuch as the utmost that they did was a consulting how a law which might be passed should be resisted, whereas, the consulting how to raise an insurrection to oppose an existing law, upon the authority of this case, which has not been disputed, is not high treason.

Gentlemen, the same observations arise upon another act which is imputed to Mr. Tooke, the adopting certain resolutions which were passed upon the judgment against Gerrald. These resolutions, reflecting upon the judgment of the court of Scotland, however improper you may think them, however improper they may appear to the bench that preside in this case, these resolutions were not acts of high treason, and, therefore, they do not apply to this case; but there is another strong reason why they do not apply to him, he was not present at the time that they were passed. It is in evidence to you that Gerrald was present; that Mr. Tooke, at the beginning of the meeting, was in the chair; that he left the chair while these resolutions were going on; and that Gerrald himself, the man who was about to suffer under that judgment, stung, I should say, with the apprehension of that judgment, because judgments had been passed with great severity against other delegates, which he was complaining of, waiting

* See sir John Freind's case, *antè*, Vol. 13, pp. 61, 62.

for his trial, and stung with apprehension of such a judgment against himself, he proposed and agreed to those resolutions, but Mr. Tooke had left the chair, as appears from the books which they produce, though it does not appear in the report of the secret committee.

Another crime imputed to Mr. Tooke is, that he has approved of Mr. Paine's works, and, I believe, Mr. Barlow's. He has so; but, is a man answerable for every passage in a book to which he gives his approbation? Does not it appear to you, that this is a fair way of construing such an act of approbation? See what the general principles of the man are, who approves; see what his great object in life is; see what his object is at the time that he approves, and, if you find in the book any principles tending towards that object, which is his professed one, which is proved to be his real one, those are the parts of the book to which his approbation must apply, and not to the others. Now let us see in point of fact, how that comes out in other parts of this case.

They called a witness from Sheffield; Paine's work, you know, had been approved of at Sheffield: they questioned the witness as to his approbation of Paine; what was the answer he gave? It was this; we were upon the duke of Richmond's plan, and we approved as much of Paine's book as fell in with that plan: and they used Paine's book as a means of promoting the plan which they had of carrying the duke of Richmond's project into execution, but, it would be an abominable thing to fix men with all the principles contained in Paine's book, as applicable to the government of this country, because they approved of the book, when they were pursuing a certain object, to the prosecution of which object, other parts of the book contribute.

Gentlemen, you have a farther explanation of this from a witness called by Mr. Tooke himself, a gentleman at the bar, Mr. May; he tells you, he has known Mr. Tooke several years; that he has been in his company in hours of conviviality, and in serious hours; when he had drank much wine, and when he had been perfectly sober—he says he had a curiosity to know what Mr. Tooke's real sentiments upon government were; that he himself had no communication with any of these societies; he tells you he found Mr. Tooke always well attached to the king, and to the Aristocracy, to the nobility of the country; he always expressed himself strongly in their favour; he conversed with him upon the subject of this book of Mr. Paine's and Mr. Tooke reprobated Mr. Paine's doctrine, with respect to Monarchy, as applicable to this country; he always said that this country was not fit for a republic; constantly held that conversation; but he constantly said, that his object was a parliamentary reform, which, he thought, ought to be pursued in this country, by all good citizens, because it was his judgment, that it would tend to confirm, instead of overturning the constitution; he approved, therefore, of those parts of Paine's book which had that tendency; but it is evident he disapproved of those as applicable to the English government, which tended to the destruction of monarchy.

Now, out of all this together, out of this monstrous farrago of papers, this address to the French Convention, the subscriptions, the Scotch Convention, the business of Gerrald, the approbation of Paine and Barlow, upon which the same observations arise; out of all these together, they say they have collected, that Mr. Tooke has conspired with others to overturn the government, and depose the king, holding out parliamentary reform as a mere pretext to cover that underplot of his; that he conspired to depose the king, and to overturn the government, and to do it by force; for it must be by force; and it is stated by the solicitor-general, in his opening, that what he charged Mr. Tooke with, is a conspiring to depose the king, and bring about that deposition by force to be used by himself, or by others that were to be employed by him.

Gentlemen, what force have you any evidence of in this case? Will you collect from this parcel of papers, from these addresses, from these circumstances upon which, I confess, I have been only able to make general observations to you; will you collect from them that there was any project of force on foot? That Mr. Tooke had it in his contemplation to take up arms, or put arms into the hands of any other persons, when there is not a tittle of evidence upon the subject? The charge against him cannot be proved, without proving an existing or prepared force; there is no evidence of this. Will you collect this? Will you infer this? Will you believe that which is not produced in evidence to you, merely for the purpose of convicting a man? I agree with what has been stated by the attorney-general, and laid down by his lordship, on the last trial; that it is not necessary that the force should be adequate to the end; that it should be certainly sufficient to produce the purpose to which it is directed; but I do insist, that, in order to make you believe that it was the object of the prisoner to bring about a certain purpose by force, there should be some reasonable evidence given you, either that something like force existed, which he had it in his power to use, or, that there was something like preparation of force to be used hereafter. Now, is there any thing of that sort in this case, and can you make any thing of the case without force?

Gentlemen, in cases of this sort, which have been tried, it generally happens, that there has been some pretender to the crown, who was ready with an army, to which the parties could attach themselves; in all the

cases stated from the State Trials, there was a pretender to the crown, their did exist plots in the country, there were people to whom those who favoured the pretender's claim might immediately attach themselves; if there was not a force on foot in this country, there was a force in a neighbouring country, in France in which the pretender resided, ready to co-operate with any here, for the purpose of assisting his pretensions to the crown; it was credible, in that case, that men who entered into consults against the government, had such views as might be imputed to them, because there was a force to which they might attach themselves; but what is there of that sort here? Is there any force in this country? Are there any arms in the hands of any men in this country, to whom these people, if they rose, could possibly attach themselves? If there was not, what preparation for force is there by which they might effect their own purposes? There is nothing in the world but twelve pike-staffs, spoken to by the witness, Widdison, from Sheffield, which were made for the self-preservation of those who thought themselves endangered by attacks made upon them there. So much for the force, which, if you do not believe to exist in this case, it is impossible you can convict the prisoner, because, it is the essential part of the charge; as little have they made out any conspiracy to bring about that end, which is imputed to him.

It is charged against Mr. Tooke, that he conspired with some who are named in the indictment, and with others who are not named, to depose the king; who are those persons with whom he conspired? One of them was Mr. Hardy; he is withdrawn from the conspiracy, the verdict of a jury has found Mr. Hardy, who stands first upon this indictment, the great leader of the conspiracy, the secretary of the most obnoxious society—that man, who is supposed to have been the generalissmo of those troops—the manager of all this, whose hand was in every thing—Mr. Hardy has been acquitted by a jury of his country.

The charge against Mr. Tooke is, that he conspired with Mr. Hardy, and others, to overturn the government of this country, and to depose the king. Hardy is placed in the front of the battle; and if they had placed him first in the indictment by mistake, it was not necessary that they should try him first; for it is at the option of the attorney-general to try first whom he pleases. Hardy is brought forth the first man to be tried; did they not wish to get a conviction in the first case? Was it not, think ye, the great object of those who conduct these prosecutions to set out with one upon which they could get a verdict? Would it not have been a great thing for them to have laid before the public
d to have laid before another jury, the
ient of his conviction, if Hardy had been
:ted?—Has it not been determined,

in this case, that the judgment of the acquittal of Hardy is evidence? Can it be said that if he had been convicted the judgment of his conviction would not have been evidence against Mr. Tooke? Had they not, therefore, every motive, every inducement, to bring forward first their strongest case; the case on which they most relied; the man on whom they could fix every thing; the man whom they supposed to be connected in the inmost councils of all those other imputed conspirators?—Do not you believe that in the judgment of those who conduct this prosecution, Mr. Hardy's was the strongest case? That he was the prince of conspirators? That he was, as they believed, the leader of all the others—the person who set all this supposed mischief on foot? Would not it have been dinned in your ears, if Hardy had been convicted, that one step of this indictment was proved; that the charge against Mr. Tooke is, that he conspired with Mr. Hardy, and Mr. Bonney, and Mr. Joyce, and a great many others; that in getting one conviction they had proved that there was a conspiracy on foot in the country; that Mr. Hardy, the secretary of one of these societies, was at the head of the conspiracy; that he was the man with whom Mr. Tooke had connected himself? Should we not have heard from every man on the other side of the table, if they could be permitted to speak, that their great business was done; that there was no doubt of the existence of the conspiracy; that here was a jury of twelve honest men of the country, to whose care the life of the prisoner had been committed, and they, like honest men, feeling for the prisoner, but feeling also for their country, had felt themselves bound, upon the evidence produced, to say, upon their oaths, that Mr. Hardy, the conspirator with Mr. Tooke upon this case, was guilty of high treason; that therefore the conspiracy itself existed to the extent to which it was charged; that the verdict of the jury, and conviction of Hardy, showed this; and that the only step now remaining, was to show that Mr. Tooke was concerned in that conspiracy.

Gentlemen, I borrow all these arguments, in favour of Mr. Tooke, from the acquittal of Mr. Hardy. I say that Mr. Hardy, stated to be a joint conspirator with Mr. Tooke, implicated in the whole of the business, has been tried by a jury of his country; that jury ill conducted themselves in that cause, if they were not moved by the address of the very eloquent and learned gentleman [the attorney general] who now is leaving the Court, if they were not moved by his address to feel a strong sense of the duty which they owed to the public, as well as to the prisoner. They did feel it. They felt likewise that it was their duty not to find a fellow subject guilty of high treason, unless the proof against him was, in the language of the law, plain, direct, and manifest. Upon the proof,

produced against Mr. Hardy, they were of opinion that he was not a conspirator with Mr. Tooke; that there did not exist a conspiracy, in which Mr. Tooke and Mr. Hardy, and those other persons combined, to overturn the constitution, and depose the king; and therefore they acquitted Mr. Hardy. The verdict of acquittal, which has absolved Mr. Hardy from the charge which lay against him, absolves Mr. Tooke from that part, at least, of the charge brought against him, which states that he conspired with Mr. Hardy to overturn the government. Mr. Hardy, the man whom they have brought forward in the front of the battle, is an innocent man; and so, I trust, you will find the gentleman, who now stands at the bar, to be.

But, gentlemen, in proof of this conspiracy, in which Mr. Tooke is stated to have participated with Hardy, Hardy is not the only person with whom he is stated to have participated; Mr. Sharpe is another; he is not one of the unknown traitors, but he is stated, on the indictment, to be one of those persons with whom Mr. Tooke, and the others, conspired to overturn the government, and depose the king. I will not repeat to you all the observations that I made upon the situation in which Mr. Sharpe stood; certainly every thing that passed, he knew, and certainly none of the others could be traitors if Mr. Sharpe was not; and yet Mr. Sharpe called by the prosecutor, and cross-examined by us, states to you in terms, that parliamentary reform was the mere, the sole object which Mr. Tooke, and the rest had; that there was no idea, in any of them, of doing that which is imputed to them in this indictment, of overturning the government by force; that they never had any project of force; that no suspicion ever entered his mind that any man of the society had any notion of employing force; that the real object was, as I stated, reform, and no other. So it stands upon the force, so it stands upon the conspiracy, and this is a charge against Mr. Tooke, that he conspired, with others, to overturn this government by force.

I think the prosecutor's witnesses have negatived the force; I think the prosecutor's witnesses have negatived the conspiracy; I think this case required no answer from Mr. Tooke; that was my judgment, and I told him so: I believe it was also the judgment of my learned friend; that where a direct charge is brought against a man, that he has conspired, by force, to do a particular thing, where it is proved by the witnesses, who are brought forward to prove that charge against him, that no force existed, that no project of force existed; where it is proved likewise by those witnesses, that the persons, who had met together, had not the designs imputed to them; but that they had the other design, which the prisoner himself says he entertained, a parliamentary reform, and merely a parliamentary reform, I think the prosecutor's case is so answered and negatived by his own witnesses, that it calls for no answer from the prisoner; that was, and that is my judgment upon the case: yet still, for the satisfaction of the world, for the satisfaction of the Court, for the satisfaction of you, who sit on the jury, and for the satisfaction of those who hear this cause, and for the future support of the character of the gentleman who stands at the bar, he took upon himself the proof of the affirmative, he boldly stepped forward and said:——

The charge against me is, that parliamentary reform was a mere pretext; that when I said I meant a reform in parliament, I did not mean it, that I meant somewhat else: they have raked into all the passages of my life, they have endeavoured to prove by a hundred different acts, with many of which I am not affected, that my real object was not a parliamentary reform; they have not proved that which they undertook to prove, and which they must prove before you can convict me, that I conspired with others to depose the king; they have put their case, that either I did that, or I meant parliamentaty reform; and, by putting it in that way, they have given me an opportunity, which I am glad they have given me, of showing, by evidence, what I did mean. I will let you into the whole of my character; I will let you into the whole course of my life; I will call those who have seen me in public and in private; I will show you what I have done at public meetings, where there were many who could prove how I acted; I will show you what I have said, and done, before those who were in my confidence, and who, if I had any sinister designs, must have discovered them; I will lay my whole life before you, as far back as the memory of man can go; and in order to show that reform was my real object, and that it was not a mere pretext, I will show you that my language, my writings, my acts, and conduct, do all manifestly testify, that my opinion has constantly been that the representation in the House of Commons should be reformed; I have had that, and that only object, in view; (and Mr. Tooke is proved to you, by many witnesses, to be a man, firm, steady, and inflexible in his opinions) I will prove to you, he says, as far back as memory can go, as far back as any of my acquaintance, that are living, can speak, that these have constantly been my opinions, and that I have uniformly acted upon them. With respect to designs that I may be supposed to entertain against the king and the nobility of the country, and which I shudder at the mention of, I will show you from that same conduct, public and private, from those same confidential friends, that the king has never been mentioned by me, except with regard, with esteem, and with reverence; that I have always spoken of the nobility of this country, as a body of men who ought to be supported: that my

complaints have always been directed against that which they now are directed against, namely, what I conceived to be a corrupt and imperfect representation of the people in the Commons House of Parliament; that the reformation of that corruption, the remedy of that evil, is the object I have constantly pursued, and that I have pursued no other.

I will bring you then down to the later acts of my life; I will then bring you acquainted with me for the last three or four years, the time when I am supposed to be plotting this conspiracy; I will show, that by all the public acts that I have participated in during that time, by many private conversations, by many confidential communications to friends, that so late as the last two or three years, at which time I have been supposed to be plotting this horrid conspiracy, my language has been the same, uniformly, to all who knew me; that my object was parliamentary reform, a reform in the House of Commons, but no where else.

Gentlemen, for this purpose Mr. Tooke did call witnesses.—The first, you will recollect was a gentleman of great honour, major Cartwright: he told you that he had known Mr. Tooke intimately for the space of sixteen years; now that is a reasonably long period to make one's self acquainted with the real dispositions and objects of a man; he tells you he never met with a man in his life who was more steady, more firm, and more inflexible in the opinions that he once entertained; and the major had great reason to say so, for he differed with him in opinion; and it was more likely to strike him than a man who had not that circumstance to lead him to the observation.

I should have stated that the first circumstance which the major speaks to, is the general object of the Constitutional Society; he was one of the fathers, one of the institutors of it; he had known it from its institution; and he states to you, in express terms, that the only object of the society, during all the time he knew it, was a reform (I mean always by reform, a reform in the House of Commons); for that purpose it was instituted, and all its measures had been directed to that object, till the time when he went into the country, and therefore attended it no more in the year 1792. He is asked what Mr. Tooke's opinions, with respect to the king, and the nobility are; he tells you in terms, and his declaration is drawn from the result of an infinite number of conversations with Mr. Tooke, and a confidential knowledge of him for sixteen years, he tells you that he constantly held that a reformation in the House of Commons was the only thing wanted to make our constitution perfect; that he always expressed himself with the greatest degree of esteem and reverence for the king; he always expressed himself attached to the nobility of the country, and directed his complaint against nothing but the House of Commons; he differed from major Cartwright upon the mode of this reform, but still his object was only reform; major Cartwright was of opinion that universal suffrage was the best substitution that could be made for the present representation in the House of Commons; Mr. Tooke disagreed with him; he told him so; he debated the point with him more than once; major Cartwright relied upon Locke; Mr. Tooke told him he thought he mistook the sense of Locke, or, I believe, not that he mistook the sense of Locke, but that he thought the principle laid down by Locke, upon which major Cartwright founded his opinion, was a false principle; that though he had great respect for so great a man as Locke; a man to the admiration of whom Mr. Tooke's understanding must often have led him, yet he did not think Locke had formed a just opinion upon that subject:* then they agreed upon this; you are for universal suffrage, I for a reform in parliament, but short of universal suffrage; we will travel together as well as we can; and he compared their situation to that of two men in a Windsor stage-coach, one of whom wanted to go to Windsor, and the other to stop at Hounslow; Mr. Tooke thought a certain reform in parliament a good thing, but he would go no farther on that road than Hounslow, he would stop there: major Cartwright, who was for universal suffrage, would go on to Windsor. Surely there is nothing criminal in this political journey to Hounslow in the same stage-coach, with a man who is going on to Windsor; similar journies have been performed by many whose conduct, I am sure, has not been reprobated on that account. You recollect that at many of these meetings (I refer to the meetings of Mr. Pitt, when he was a friend to parliamentary reform), he had those with him who were for universal suffrage, and yet he thought no harm in adhering to them, or rather calling them under his banner, for the purpose of producing the reform which he wished, and which Mr. Tooke wished for, not meaning to go on with them to Windsor, but meaning that they should help him on to Hounslow; that, therefore, which was not criminal in one man cannot be criminal in another; and I do not think it can be imputed to Mr.

* "He" (Horne Tooke) "was also a great "admirer of Locke. Of this illustrious Eng- "lishman, he was accustomed to observe in "the language of Ben Jonson, while speak- "ing of Shakespeare, *I reverence him on this* "*side of Idolatry.* In respect to his work on "government, however, he did not seem to "think that he went so far as might have "been expected, for he remarks *that Locke* "*had written enough to justify the assumption* "*of the government by King William and no* "*farther.*" *Memoirs of John Horne Tooke by Alexander Stephens, Esq.* Vol. 2, p. 435.

Tooke, that this partial journey which he meant to make, with major Cartwright, up to the extent of that reformation which he, Mr. Tooke, intended, can be criminal, although major Cartwright might mean to go a little farther for the purpose of introducing universal suffrage.

Gentlemen, this is the account that major Cartwright, from an acquaintance of sixteen years gives of Mr. Tooke—that he was attached to the king and to the nobility, and that his only object was a reform in parliament; and yet the case pretended to be proved against him in this cause is, that he wishes to overturn the constitution; that he wishes to depose the king; and that a reform in parliament is a mere pretext.

Gentlemen, when did this pretext begin? We have gone through sixteen years of his life by major Cartwright, and during all this time this man is uniformly holding the same language—that the king is to be supported—that the nobility are to be supported; and that for the support of the king—for the support of the nobility, in his judgment, it is better that there should be a reform in the House of Commons; because he thinks that by that reform in the House of Commons, the whole constitution will be more perfect than it is at present.

Gentlemen, I come now to some of the public acts of Mr. Tooke; who, if he has been conspiring against the crown, has acted, I think, the strangest part that any conspirator for that purpose ever did act. I will, as far as I am able, lay his whole life, public and private, before your view; I will show him doing public acts in the year 1780, in the years 1782, 1785, 1788, 1790, I think in the year 1793, which show most decidedly that his real object was a parliamentary reform in that branch of the legislature which we call the House of Commons.

The first public act I shall show is in the year 1780. You will find it proved, by referring to the notes you may have taken, or to your memory of the evidence, that so long ago as the year 1780 associations were held, and associations of delegates, I think, for the purpose of bringing about a parliamentary reform; that there were delegates from different towns and counties in this kingdom. Mr. Sheridan proved, that at these meetings Mr. Tooke attended, that at these meetings his object was not to raise confusion in the government—not to stir up an insurrection against the existing powers—not to overturn the government and to depose the king, as is imputed to him by this indictment, but his object was, a reform in the House of Commons; he joined with those others whose objects were similar. These delegates met frequently; Mr. Tooke met with them; and constantly and uniformly did he, at all these meetings, declare his object to be a reform in the Commons House of parliament. So far we get then, that this gentleman, whose opinions are so steady and inflexible that nothing can turn them, did, for sixteen years of his life, by the testimony of major Cartwright, entertain these opinions; that in the year 1780, by many public acts he committed himself upon them, he showed to the public that his object was merely a reform in the Commons House of parliament; so much for the year 1780. In the year 1781 there were no public acts in which Mr. Tooke participated. The year 1782 was the time when Mr. Pitt brought forward his project for a reform in the House of Commons; and you will find from Mr. Pitt's testimony—from the testimony of the duke of Richmond—from the testimony of Mr. Sheridan, and many others, that Mr. Tooke attended constantly at these meetings; that he constantly supported, not the project of universal suffrage with the duke of Richmond, who was present at several of these meetings,—at whose house one of them I think was held,—but that he wished for something short of that; that he constantly attached himself to Mr. Pitt, and followed him through his political life up to a certain point; he wished for that reform which Mr. Pitt wished for, and assisted Mr. Pitt to the utmost of his power in obtaining that reform: so much for the public conduct of Mr. Tooke as far as arises out of his conduct at the general meetings in the year 1792. In that same year, after Mr. Pitt's motion in the House of Commons for a reform had been thrown out—that motion to which Mr. Tooke so ardently wished success, and the ill success of which he so much regretted—Mr. Tooke addresses a letter to a learned gentleman, whose loss in the profession, and in that House of parliament of which he was an ornament, we shall always regret—he wrote a letter to the late Mr. Dunning upon this subject, a private letter at first, but afterwards published. Let us see now when this plan of Mr. Pitt's was thrown out—when the majority of the House of Commons declared themselves of a different opinion; let us see whether Mr. Tooke appears to have acted like a man with whom a parliamentary reform was a mere pretext, or whether it was really the object of his mind. I shall not go through all the parts of the letter, it has been read before; but in answer to some of those objections which have been raised in the House of Commons to this plan, he says, "I trust that there are very few persons in this country who desire so improper and impracticable a measure as universal suffrage; but if there were many, the wisdom of parliament would correct their plan, and the corrected would be well pleased at the correction."

Now, gentlemen, that circumstance confirms the evidence which all the other witnesses have given in this cause, that Mr. Tooke is a man steady, inflexible, and persevering in his principles; that he is not a wavering man; and it was to this point that many of the witnesses were questioned. For

when the inscription on their coats was king and constitution, what were the resolutions that were passed, what the nature of them, and who the person who proposed them?

Gentlemen, Mr. Tooke stood forward on that occasion, and proposed the resolutions, be they what they will, that were passed at that time. I am sorry that it is not in my power to lay the resolutions themselves before you, because I think they breathe such a spirit of loyalty as must expel from all minds all possible suspicion that such a man could entertain designs against the sovereign; that was the time at which, if he had entertained any such designs, they would have appeared; that was the period at which his affection or disaffection was likely to be called forth, and yet he is the man who attends this meeting, who associates himself with such men as you have heard proved did attend it, who brings forward resolutions at that meeting, testifying the loyalty not only of himself, but offering a sort of test to the rest, who were present, of their loyalty to the king, and their attachment to the constitution. After this, I think, I need say no more of the year 1788, when Mr. Tooke not only was a loyal man, but distinguished himself from those who were thought to be otherwise, by his public attachment to the person of the king, declared in resolutions read, and offered by himself, at a public meeting.

The next public act of Mr. Tooke's life—and I state all that are in evidence, I wish there were more, because I am sure if there were more, all would contribute to the same end—is in the year 1790, when a meeting was called for the celebration of the anniversary of the French Revolution: and you will recollect that, at that time, the French Revolution was in its infancy. Mr. Sheridan was the person who called that meeting, and he told you, in his evidence, that a resolution had been agreed on before-hand, between him and some of his friends, and the words of the resolution I will read to you—"That this meeting does most cordially rejoice in the establishment and confirmation of liberty in France; and that it beholds, with peculiar satisfaction, the sentiments of amity and good will which appear to pervade the people of that country towards this kingdom, especially at a time when it is the manifest interest of both states that nothing should interrupt that harmony which at present subsists between them, and which is so essentially necessary to the freedom and happiness not only of the French nation, but of all mankind."

Now, gentlemen, while we have so much of the French affairs in this business, let us see what part Mr. Tooke takes upon this occasion; he approved of this resolution; he thought it a proper one; he rejoiced in the French Revolution, as far as it affected the country to which that revolution applied, but did not wish that any part of it should be applied to this country; he did not wish to disseminate an opinion in this country that any revolution was wanting here; he, therefore, after a speech in which he stated, as is proved by Mr. Sheridan, that the vessel of the French government was so decayed and bulged, that it was incapable of repair; that a revolution therefore was necessary in that country, but the vessel of our government was riding proudly over the sea; that her main timbers were all sound; that she possessed a vigour in her constitution which was unimpaired; she might want some correction, but the constitution itself was sound (I pretend not to repeat the words, but that was the substance of Mr. Tooke's speech) he proposed an amendment to the motion, but the amendment was thrown out, because the motion had been agreed on before; and then Mr. Tooke proposed an original motion, which I will read to you.

"That this meeting feel equal satisfaction that the subjects of England, by the virtuous exertions of their ancestors, have not so arduous a task to perform as the French have had, but have only to maintain and to improve the constitution their ancestors transmitted to them." This is in the year 1790, and yet it is imputed to Mr. Tooke that he is a plotter to overturn that government; to depose that king, of whom he speaks in the terms which have been stated to you; to introduce French principles of anarchy into this country, when at a meeting for the purpose of celebrating the French Revolution, lest it should be misunderstood by ill-judging people that such was the design of the meeting, he states in terms that the constitution is what he always has said it was, what falls in with the constant and uniform tenor of his conduct and conversation, that the constitution of this country is firm and unimpaired; that it is matter of satisfaction for the subjects of this country that the people of England, by the virtuous exertions of their ancestors, have not so arduous a task to perform as the French have had, but have only to maintain and to improve the constitution which their ancestors transmitted to them; that constitution, in the admiration of which almost all the public acts and declarations of Mr. Tooke consist.

The last act—I know not whether to call it an act, it is not so properly called a public act—the last act of Mr. Tooke's life, as connected with other persons, that is given in evidence, was in the year 1793; I mean his conversation with Mr. Francis. You will recollect that this is at the time when Mr. Tooke was supposed to be plotting and conspiring against the government. Mr. Francis had brought into parliament a bill for a Reform in the House of Commons; knowing the learning of Mr. Tooke, knowing how well acquainted he was with subjects of this sort, he communicated his plan to him, and desired such return of communication as Mr. Tooke might be able to furnish. What was

the conduct of Mr. Tooke upon that occasion? Does he say this is not going far enough? Does he disapprove of this? Does he there fall in with that project of universal suffrage, which most unquestionably, if Mr. Tooke had had that conspiracy in his mind which is imputed to him in this indictment, would have carried him much nearer to the accomplishment of it? Suppose, for a moment, that Mr. Tooke's plan was really to overturn the government, but that he did not wish to hold out this to the public, and therefore he would profess himself to be a favourer of measures that did not go that length, would not he, in that case, have gone the length of universal suffrage? Would not that have brought him a great deal nearer to what he is pretended to have pursued? And yet no such thing; even down to the year 1793, Mr. Francis proposing to him the plan of a moderate reform, he tells you that, in conversation with Mr. Tooke, he agreed to that Reform.

Gentlemen, I could have given you evidence of a public declaration of Mr. Tooke's, so late as the 2nd of May, 1794; and, still lower down, a public declaration, a declaration proved in a former trial: however, that witness is not called for the crown, and therefore we, of course, do not call a man who, on that trial, appeared to be a spy of the government. But, gentlemen, though I do not call a witness who proves that specific fact, yet I have called to you numberless witnesses who were intimately acquainted and connected with Mr. Tooke, who had been in his confidence, and who speak to his opinions during the last three years of his life, up even to the time of his apprehension; these are Mr. Simmonds, Mr. Maxwell, Mr. Harwood, all of whom are intimately connected with him; all of whom know, as they believe, his most secret thoughts (and Mr. Tooke is not a man to conceal his secret thoughts from those with whom he communicates); they all tell you, that from all the conversations that they have ever had with him, and they have had numberless conversations with him upon those subjects, his professed object has always been a parliamentary reform, a parliamentary reform up to a certain point only; that he has always stopped short of universal suffrage; that with respect to overturning the government, with respect to deposing the king, so far is he from entertaining any project of that sort, that he has always expressed himself, both in public and in private, as far as his conduct has fallen under their notice, and all his conduct has fallen under it, with the greatest degree of respect and reverence; that he has professed an esteem and respect for the person of the king; he has professed an esteem and respect for his character in the constitution, as necessary for the preservation of the other branches of it, and has always declared that an attempt to introduce a different mode of government into this country, would be fatal to its existence. That this has been the general conduct of Mr. Tooke; that these have been his general opinions; that this has not, as it is stated by the gentlemen on the other side, been a mere pretext, must be evident to you from the testimony which I have stated.

But, gentlemen, there is also another witness whom he has called to the general tendency of his conduct, and to his general character; a gentleman, of whose learning and whose integrity it is unnecessary for me to say any thing, because they are much above my praise, and can receive no addition from it; I mean the bishop of Gloucester. His lordship tells you that he has known Mr. Tooke intimately for forty years; that their acquaintance commenced at college, where they were fellow students, that not only their acquaintance, but their intimacy has continued since; he is questioned particularly and boldly, and in the voice of an innocent man, by Mr. Tooke, as to what he knows, or what he has reason to think, of Mr. Tooke's political opinions; he says he never knew Mr. Tooke vary in his political opinions at any time; he has known him intimately, you will observe, and he never collected from any act of his life, from any declaration of his in the confidence of friendship, that he was hostile to any political or religious establishment in this country; he says that his habits of life were those of a studious man, that he was engaged mostly in books; that he, the bishop, had frequently assisted him with rare books which Mr. Tooke had occasion for in the prosecution of a literary work; that he was much concerned in grammatical researches; and then being asked, whether, from the whole course of his life, from the intimacy that subsisted between them during the last forty years, he had any reason to think that Mr. Tooke ever entertained a thought of conspiring against the king, or the government, he says, "No—certainly not."

Gentlemen, you will recollect that in going through the prisoner's case, I undertook only to show to you, and it was all that it could lie upon me to show, that what it is admitted has always been held out by him as his object—a Parliamentary Reform—was not a mere pretext; have I not shown you that most satisfactorily; have I not carried you through the whole course of his life, as far back as I could go? Beginning forty years back with the bishop of Gloucester, I bring him down to major Cartwright, who knew him sixteen years back. Then we come to the year 1780; I communicate to you every public act in which he has ever partaken; I call to you his private friends, who have all been in a state of intimacy with him. I leave no period of his life unaccounted for; I asked particularly for these last three years, for I called five or six witnesses who have known him during that time, and they all concur in telling you that he has had one plain, uniform, steady plan, a Reform in Parliament up to a

certain pitch. Not only that he never went the length of a conspiracy to overturn the government, or to depose the king, but so inflexible was he, that he never would lend himself to those who wished to go farther than himself; he never could be carried over to the opinions of those, who, wishing with him for a Parliamentary Reform, wished to carry it farther than he did, up to Universal Suffrage. Then how can it be contended that this person, of whose life I have given you this history, who has constantly made the same evil the subject of his complaint, who has always stated the remedy for that evil to be a moderate parliamentary reform in the House of Commons—with what face can it be alleged that all this is mere pretext? My evidence has nothing to do with the rest of the case, it is only to show that this profession of his is not mere pretext; if this was not mere pretext, then it was his real object, and if it was his real object, he was pursuing a lawful object, for as to the pretence of pursuing this object by force, it is ridiculous to state; there is no evidence in the cause by which you could persuade the weakest creature upon earth to come to that conclusion.

It is made a question whether Mr. Tooke has on one hand conspired, or entertained a design to overturn the government, or whether, on the other hand, his object was, as he has always professed, a Reform in the House of Commons; and what is there to show that this is a pretext; what is there to show that this is not his real object? Why there is a multitude of papers, addresses, and resolutions produced, containing improper expressions—I may admit libellous expressions—expressions for which I will admit those concerned in them may be punished; but they do not amount to high treason, nothing like it; and from this inexplicable mass and confusion of papers, you are desired to presume against the constant course of a man's life, against the evidence I have given, not only of his public, but private declarations and acts, all tending to the favourite idea of his mind, Parliamentary Reform, that this was mere pretext, and the destruction of the king his real object. Human credulity cannot go this length.

Gentlemen, I beg to bring you back. I went into this case at the request of the prisoner, for the sake of clearing his general character to the world, that there might remain no slur upon it; but I beg you to remember that I insist, and insist confidently, that the case made by the prosecutor did not call for an answer: that they themselves disprove the charge; that their charge is that Mr. Tooke, and those others of the Constitutional Society, and those men of the several societies had conspired to overturn the government, and depose the king; and in going into a proof of the overt-acts of the conspiracy, they prove first acts indifferent in themselves, and upon which, without farther proof, this construction could not be put; knowing this, they endeavour, by other evidence, to give them the colour of a criminal complexion, and shape them to the charges in the indictment; therefore they call witnesses who must know whether that conspiracy existed, or not, who were acquainted with the actors in it, if it did exist; they present to you these men upon their oaths, they undertake by these men to prove their case; for that purpose they call to you Adams and Sharpe, partakers in all these measures, such as they were; they call to you the persons from Sheffield also stated to be conspirators with the prisoner Mr. Tooke; all these persons, witnesses for the crown, disprove the allegation; they deny that it was the intention of any of those societies, or any of those committees, to overturn the government, or to use any manner of force whatever; the crown has disproved its own case; the witnesses for the crown have negatived the criminality of those acts which they were brought forward to prove criminal. This they were brought forward to prove, and they have disproved it. I borrow, therefore, the evidence of the crown for the purpose of disproving what the prosecutors hoped to prove by them, the criminal intent. These witnesses, who must know what was the intent, who are the only persons that must know it, you have their account directly contradicting it. I have, therefore, a verdict for the prisoner given to me by the evidence for the crown, and it was to satisfy the jealousy which the prisoner entertains for his character, and for that purpose only that I called his witnesses.

Gentlemen, with this proof on the part of the crown to acquit the prisoner, it appears to me impossible that you should convict him. I have not entertained a moment's anxiety in this case, because I have found my client perfectly safe; he must be safe, because you are honest men. I have no scruple to say, that if, upon such evidence, the gentleman who stands at the bar should be convicted of high treason, there is an end of that part of the freedom of Englishmen which they derive from the protection of the statute of the 25th Edward 3rd, and they are sent back to all that obscurity; to all that difficulty; to all that danger which existed before the statute, which the makers of that statute complained of, but which was remedied not only by that but by the subsequent statute of the first of queen Mary. I am perfectly satisfied in my own mind, that it is impossible, against the words of the statute which I have stated to you, against the construction put upon the statute by the most learned men who ever presided in courts of justice in this country—considering too the evidence that has been given, negativing all sort of criminality in the prisoner, and considering that that evidence chiefly comes from the witnesses for the crown, it is impossible that you should

hesitate about your verdict. I cannot suffer myself to entertain a moment's anxiety for the fate of the gentleman who stands at your bar; it is impossible that with an English jury he should incur any, the smallest degree of danger upon such a case.

The proof to convict an Englishman of high treason must be plain; must be direct; must be manifest. The proof in this case is plain, is direct, is manifest; but it is all in favour of the prisoner. The proof offered to support the prosecution, furnishes a plain, direct, and manifest case for an acquittal. I have no scruple to say, unconnected with all parties, not having in my mind a wish upon this subject, except as a counsel may be supposed to entertain some in favour of his client, but with respect to the public not entertaining a wish except for public peace and public order, having never mixed myself in any political considerations whatever, having never connected myself with any set of political men, and studiously avoiding all such connexions, living equally with men who entertain one and the other opinion upon the subject of politics; I have no scruple to say, and I say it from the bottom of my heart, that I think a ruder shock cannot be given to the constitution of England, as far as it depends upon a due administration of its laws, than by convicting this prisoner upon this evidence.

Lord Chief Justice *Eyre*.—Mr. Tooke, it is proper I should inform you, that if you wish to address the jury yourself, you have an undoubted right to do it; that this is the time for you to do it, and that you cannot be permitted to make any observations after the reply, nor after the summing up.

Mr. *Tooke*.—I very much fear that I have spoken already too much, and too often in this court, and I do not mean to trouble you with one word.

REPLY.

Mr. *Attorney General* [Sir *John Scott*, afterwards Lord Chancellor Eldon.]—Gentlemen of the Jury;—It has pleased the Providence of God, in such of his dispensations as affect the situation which I am to hold in this world, to call upon me, at this moment, to execute a duty so awful and so important, comprehending obligations of such a nature and so various, that I protest solemnly, in the face of my country, and in the presence of that Providence, that I can look only to His support, to enable me to execute it, as I ought to the prisoner, and the country.

Gentlemen, you are now brought near to the conclusion of a most important cause, a cause, which involves in it the dearest interests of your country, and of the prisoner; a cause, which involves in it (and that is what I call upon you most particularly to attend to) every interest, that in this moment, and at future periods, can be valuable to the gentleman who stands at the bar.

Gentlemen, I repeat to you again—what I have stated in another stage of this business—that I am an unfaithful servant to the crown, and in that character an unfaithful servant to the public, if I ever forget, for one moment, exerting my best attention to remember it, that the distribution of fair justice, such as that gentleman is entitled to, according to the law of the land, is one of the most sacred duties which, in the character of attorney-general, I have to discharge.

Gentlemen of the Jury, you will allow me to say, looking at the commencement of these prosecutions, that they have arisen in consequence of the strong measures of the highest council of his majesty, his parliament excepted; that they have been carried on to a certain extent by the interposition of the highest council of his majesty—the parliament—in the suspension of the Habeas Corpus act—that, in consequence of these measures the case of this gentleman was carried before a grand jury of his country, and that that grand jury found this bill of indictment against him: notwithstanding all this, gentlemen, because I know that considerations may require, and, because they require, will justify, the interposition of parliament—because I know that *ex-parte* evidence will justify, and therefore require, the finding a bill by a grand jury, where yet a trial ought not to proceed—if I could have felt, when the gentleman at the bar yesterday intimated a wish, that I should signify whether this matter should go farther, in order that the jury should finally give its conclusion upon it—if I could have thought it consistent either with the circumstances of this case, my duty to the public, or my duty to my country, to have said, that it should not, it would have gratified the most anxious feeling of my heart, to have consented to its being then concluded.

Gentlemen, my learned friend who has last spoken has told you, that he has no connexion with any political parties in this country — and he has gone the length of stating to you, upon that ground, what is his own personal opinion upon the case before you. Now, gentlemen, I will say this, in the face of my country too, and I defy any man living to contradict me in what I am now stating—that, as I have never sought (to my knowledge I mean) any situation, in which I stand, otherwise than by the industrious exertion of such talents as God may have given me, so I here declare, that not one step would I take in this prosecution, repugnant to the dictates of my own judgment, exercised according to what my conscience prescribes to that judgment, not for all this world has to give me. Gentlemen, why should I?—You will allow me to say, after all that has passed, that I have no desire, with respect to myself, in this cause, but that my name should go down to posterity with credit. I cannot but remember this is an interest most dear to me. Upon no other account my name will be transmitted to posterity—with these proceed-

ings it must be transmitted. That name, gentlemen, cannot go down to that posterity, without its being understood by posterity what have been my actions in this case. And, when I am laid in my grave, after the interval of life, that yet remains for me, my children, I hope and trust, will be able to say of their father, that he endeavoured to leave them an inheritance, by attempting to give them an example of public probity dearer to them than any acquisition or any honour that this country could have given the living father to transmit to them.

Gentlemen, therefore, I say distinctly to you, that, if I had not known the evidence in this cause, when the gentleman at the bar, upon the cross-examination of the witnesses on the first night on which this cause was heard, intimated by the tenor of that cross-examination, what I shall state to you presently, the cause might there have terminated. When I use the words, "If I had not known the evidence in the cause," I beg, once for all, to state to the gentleman at the bar, because he is sitting there, an English subject, entitled to as much consideration from me as any person who is in this court, I beg to say to him, once for all, that when I am discharging my public duty, I am not taking upon me to state what the facts of the case are: that is to be the conclusion of the jury—but I speak, endeavouring to state the facts of the case as correctly as I can—acting upon the best understanding that I have of them—and that, if I mistake them, I shall feel it essential to the justice which I wish to do in this case, that I shall receive correction from him, his counsel, the Court, or any person else, who will correct me. Gentlemen, I was observing upon the tenor of that cross-examination—it did strike me, that the prisoner aimed by it at making out this sort of case; that he had very little of connexion with even the Constitutional Society; that of the proceedings, which have led him into the situation, in which he now stands, he had very little knowledge—that, with respect to the Corresponding Society, and country societies, he was still more of a stranger to them: and the turn of the cross-examination, upon the questions put to Mr. Adams, the secretary of the society, I have not the slightest doubt, had a very great influence, both upon your minds, and upon the minds of the Court. The nature of that examination had a tendency not to suggest that the measures were right, which are charged in this indictment, but to make out, that that gentleman had not such a connexion with the societies, and those measures, as to make it fit that the charge should any longer be considered as a serious charge against him—I repeat again, that if it had been possible to make that out, I should have been as glad as any man living, there to have dropt the prosecution. Surely I may venture to say, that there is not a man in England who ought to have rejoiced more than I should, because, I think there is not a man in England but must be aware, that there is imposed upon me an important public duty, painful because it is a public duty, and because it is an important duty, and therefore fixing upon me the absolute duty of exercising my judgment to the utmost—before I personally and individually take upon myself to say what shall be the conclusion of it. Gentlemen, I will tell you farther why I could not then conclude this business. Being the prosecutor in it, it was impossible for me not to know the case; and in what I have to offer to you, if there be one circumstance in it which distresses me more than another, it is this—and here I remember, that every word that I utter in the course of this business, is a word that ought to be uttered with caution—but at the same time with that firmness, which the execution of a public duty demands from me;—the greatest distress, I say, which I feel in this cause, is this, that the case applying to a gentleman, undoubtedly of great accomplishments, I hardly know in what terms to convey what I have to state to you, when I have to state that, which, if I were disposed to use harsh terms, I think I ought to say, is a case of fraud against the public security and happiness, concealing itself under measures calculated for the purpose of preventing personal detection of the party concerned in it, and placing third persons between that party and the danger which belongs to the measures. It was an honourable sentiment of the gentleman at the bar, he deserves credit for it; that he wished, in the course of this cause, that the cases of other people should be somewhat considered—gentlemen, unless I mistake the nature of this cause, there never was a person, more bound by every principle of moral obligation, to consider the cases of others, than the gentleman who now sits at the bar, because, unless I misunderstand the case, and you will consider throughout this cause that I am stating myself upon my own conceptions of the case, not presuming to say it is so in fact (for it is your business, on your conception of the case, to decide that) there never was a case, in which an individual had placed so many persons, under misconception of what he really meant, if he meant what his counsel have said for him he did mean, as the gentleman who now sits at the bar—I have not the least difficulty in saying, that, if it should hereafter happen, that persons yet in custody, and yet to be tried; if it should happen, that they have gone to lengths, which you shall think the gentleman at the bar has not gone to, and, having gone to those lengths, if the security of the public should require that they should be exposed to the severe animadversion of the law, I am persuaded that the mind of no candid man can refuse its assent to this proposition; that the circumstance of their having gone to those lengths must remain to

the last hour of the life of the gentleman at the bar, a circumstance of considerable regret with him.

Gentlemen of the jury, I come now to state to you what I have to offer as the grounds upon which it does appear to me that it is your bounden duty to find this gentleman guilty. — I express myself so — it appears to me that it is your duty to find him guilty; but I, certainly may err. The administration of the law of this country, assuredly, does not pretend to the excellencies of those foolish theories, in which the rights of man, and governments built upon the rights of man, have their foundation. The law of Great Britain, and the constitution of Great Britain, look to the government of it, as a government composed for men, and to be administered by men who have all the infirmities of men; it does not look at the first magistrate of the country, for instance, as exempt from them; but it clothes him with councils; it assists him in various ways, in order to give him that perfection, which, as far as is consistent with human nature, human law can give to a human being, I say the same with respect to the courts of justice; judges may err—juries may err—the prosecutor is more likely to err; but what then? we are all to execute, to the best of our power, our respective duties. We have a great and glorious system upon the whole; and, in the discharge of your duty, let it be remembered, that whatever opinion I may have formed of the case, one of its best principles is, that it is infinitely better for the liberties and the security of the country, that, in cases which juries may think doubtful, five thousand men should be acquitted; all men knowing, that if they engage in certain schemes to certain extents, they are liable to be tried, and have a verdict of guilty or not guilty pass upon them—I say it is a thousand times better for those liberties and that security, that prisoners should escape, where juries doubt, through misconceiving the transactions, or not duly applying the evidence, than that one man, about whose case any twelve men have a fair doubt at the conclusion of the cause, should be found guilty, and the misery of finding him guilty under that doubt should remain upon their minds.

Gentlemen, it is fit that I should also say upon this case, that, if the most mischievous man that ever existed in Great Britain was brought to this bar, it is of no consequence, none in the world, in the trial of the charge that is submitted to the consideration of the jury; except so far as the tendency and tenor of the actions, which constitute those mischievous qualities in his character, bear upon the charge which the jury are to try. I dismiss, therefore, from this case, in one moment, as I did in the last trial, every thing that my friends have said about constructive treason, analogous treason, like treason, accumulative treasons, and libels.

Gentlemen of the jury, if you should find, what I am sorry to say, I think, you cannot fail to find—if you should find libels in every part of this evidence laid before you, which has been published by this gentleman, yet I have not the least difficulty in saying, that you are to try a charge of quite a different nature; and it does not signify what the gentleman at the bar has done in the distribution of libels in the country, provided it cannot be made out to you that he has done that in the prosecution of the design which this indictment charges him with.

Gentlemen of the jury, with respect to the indictment itself, I have very little to say to you upon the law of the case, and I tell you why—gentlemen, I will state to you the law of treason very shortly, as I understand it; we live in an age of innovation. I may be wrong as I state this law, for you will always remember, that you are neither to take the law nor the fact from the protestations of counsel, in whatever situations they stand, whether in situations political or not political; they are to state the law to the Court, and in your hearing, that you may afterwards apply the facts of the case to the law, and determine, as you shall finally conceive, that the law and the facts stand upon the whole of the case.

Gentlemen, I will not go at length into this question of law, and for this reason, because, I say, that if the law, upon which this indictment is founded, is not to be taken at this day upon the ground of adjudications and judicial decisions to be clear law, there is not one man in that box, to whom I am now addressing myself, can find any law in England upon which he can say that his personal safety is secured, that his personal liberty is secured, or that one shilling of property he has is secured.

The indictment proceeds upon this ground, that a conspiracy to depose the king is an overt-act of compassing the king's death; and perhaps it is an answer to a great deal that you have heard from lord Coke, to tell you that I am stating his very comment upon those words, which Mr. Gibbs has read. A conspiracy to depose the king is an overt-act of high treason. Beyond that, I say, gentlemen, that a conspiracy to levy war is high treason, that is, a conspiracy to levy direct war; such war, for instance, as Mr. Justice Foster mentions. I will read a passage to you upon it, at the same time telling you that the constructions stated in that passage are constructions which have been permitted for centuries by parliament, which reserved to itself the declaration of treasons not specified in the statute, and fitly reserved that to itself: for I am no advocate for courts of justice taking upon themselves to say a thing is treason, which an act of parliament has not said is treason; it is the last thing they should be trusted with. Mr. Justice Foster, writing and acting under the view of parliament, a judge, by the way, not addicted to any other principles than the principles of liberty, &c.

following the judgments of his predecessors for ages, states this—"Every insurrection, which in judgment of law is intended against the person of the king, be it to dethrone or imprison him, or to oblige him to alter his measures of government, or to remove evil counsellers from about him; these risings all amount to levying war within the statute, whether attended with the pomp and circumstances of open war, or not; and every conspiracy to levy war for these purposes, though not treason within the clause of levying war, is yet an overt-act within the other clause of compassing the king's death, for these purposes cannot be effected"—I desire your attention to these words—"These purposes cannot be effected by numbers and open force, without manifest danger to his person."* And the same learned judge, in another passage, says also this—"The care the law hath taken for the personal safety of the king, is not confined to actions, or attempts of the more flagitious kind, to assassination, or poison, or other attempts directly and immediately aiming at his life, it is extended to every thing wilfully, or deliberately done, or attempted, whereby his life may be endangered; and therefore the entering into measures for deposing or imprisoning him, or to get his person into the power of the conspirators, these offences are overt-acts of treason within this branch of the statute; for"—For what? "For," says Mr. Justice Foster (and the words are repeated by a very great and noble lord, in the trial of the rebel lords in the year 1745, when they urged that they did not mean to put the king to death; as it had been also urged in Layer's case,† that, so far from intending to put the king to death, they meant to take care of his person, and that he should not be put to death, and repeated in parliament, which has reserved to itself judgment of treasons in cases not specified) "For experience hath shown, that between the prisons and the graves of princes, the distance is very small,"‡

Gentlemen, the experience of modern times, I am afraid, has not contradicted what Mr. Justice Foster has stated here; and now then let me, I beseech you, gentlemen, beg your attention, and that of the public, if I durst in this place address the public, I am not anxious, I protest before God, I am not anxious what the verdict in this case is, after I have done my duty—but give me leave to ask you, as men of conscience, can you hesitate, for one moment, to say that principles, such as major Cartwright stated were represented to him by the prisoner at the bar, as being his, have a tendency to bring about those treasons, which Mr. Justice Foster here speaks of? Why, gentlemen, what is the English of what was so represented? If he meant to effectuate his purpose—call it, if you please, a purpose to procure—a representation in parliament, as moderate, if you will, as Mr. Pitt's plan of a hundred burgesses; that plan, which for the purposes of the sedition that this case relates to, has been represented to all the ignorant people, who have been found in this kingdom, as the same as the duke of Richmond's, or, at least, not distinguishable from it; let the purpose be called, if you please, that of the duke of Richmond, or let the plan be, if you please, such as the gentleman at the bar has stated to be his plan, though there is not one act of his life, from March, 1792, that is consistent with the fact of its being his plan, let it be what it will, if the intention of the gentleman was to carry his own project by wilfully combining persons with him who had other projects, and who would have gone from Hyde Park to Windsor, though he had the intention of stopping at Hounslow; I say that, if that was his intention, he is guilty of high treason. Gentlemen of the jury, you will allow me distinctly to say, that there is not a measure of his life (when I state this, he will again permit me to beseech him to believe that I mean the measures that are now in evidence since March 1792), as far as I can recollect them, except the solitary instance of his conversation with Mr. Francis, that has not been directly calculated to produce this effect. Gentlemen, the dissemination of Mr. Paine's books, of which I have something to say presently—of Barlow's books—of the letter from Paine to Mr. Dundas—of the letter from Paine to France—of the address of the London Corresponding Society of the 6th of August, 1792, which neither of my friends durst set their faces to look at—the proceedings in April, 1794, of the London Corresponding Society, which, upon the evidence, I state to you as a creature in the hand of the gentleman at the bar, and the proceedings of the Constitutional Society in that same month (April, 1794) to which neither of them durst set their faces, which are not only explanatory of, but the most convincing and decisive evidence of what was intended in the Scotch Convention in the latter end of the year 1793, of what was intended by the meeting at Chalk Farm upon the 14th of April, 1794, of what was intended at the Globe Tavern upon the 20th of January—with respect to which last two proceedings also neither of my friends dared to venture one word of observation upon them; I say that all these measures, one and all of them, whatever might be the professed object of the gentleman at the bar, are measures calculated to induce an infinite number of persons (and they actually had that effect) to form themselves, by affiliation—by combination—by forming societies, separating again into divisions—in short, by pursuing the

* Foster's Crown Law, Disc. 1, ch. 2, sect. 3, p. 210. 3d edit.

† See the case of Christopher Layer, *antè*, Vol. 16, p. 93.

‡ Foster's Crown Law, Disc. 1, ch. 1, s. 3, p. 195, 3rd edit.

whole system of French Jacobinism, to endeavour to bring about in this country such a revolution as has happened in France. I do not mean the first revolution, that destroyed a wretched constitution in the country, but such a revolution as has happened in France since the constitution was established in 1791, which had a king at the head of it; and which, you will see, these persons foretold, when you come to look at the particulars of the evidence, could not remain with a king at the head of it consistently with the principles that formed the preamble of the declaration of that constitution. Men in this country were first to be brought to adopt, upon similar principles, a similar system of government, that should have a king at the head of it; but the project in which they were engaged, those who projected it foresaw, would surely and certainly (and I put this upon the evidence of their own hand-writing) terminate in this country as it had in France—in the destruction of monarchy, and though universal suffrage and universal representation was the first measure to be taken, yet that was only as a means to that as the ultimate end—the deposition of the king. If it was to be a means to work the deposition of the king, I say that all they have done are so many overt-acts, as well as evidence of an intention, to compass the death of the king.

Gentlemen, I chose to explain myself thus before I came to the particulars of the evidence; I beg the favour of you, when my lord sums up to you, to attend to the address to the National Convention from the London Corresponding Society, and to the address to the National Convention from the Constitutional Society, of both which I say, upon the evidence again, that the gentleman at the bar is the author, or so far concerned in the fabrication or adoption of them, that he stands answerable at this bar as the author. I collect from these addresses; and I beg your attention to what I am now stating, when my lord comes to sum up to you, that that gentleman perfectly well knew, whatever his projects were previous to the year 1789, that it was utterly impossible, previous to that period, that a revolution could be brought about in this country, which was to depose the king of the country; he could not then set his heart to the accomplishment of such a purpose as that, because he knew that the means were not within his reach, by which he could accomplish it. He says distinctly—that is those, who write that address, state distinctly—"When a republic had taken place in America, at a great and remote distance from this country, the refulgence of that revolution, like an effulgent morning, arose with increasing vigour, but still too distant to enlighten our hemisphere;" that nothing was then to be hoped for—but when the revolution had taken place in France upon the 10th of August, 1792, he then says distinctly in these addresses, that the example of America produced the revolution in France, and that between France and England there was, what he calls in the paper I have to state to you presently, one common cause. He then says distinctly, that the principles upon which the French revolution of the 10th of August, 1793, that day of glorious victory, as he puts it, are the only principles upon which a government can stand; and let that gentleman have said what he might before, you find in November, 1792, that he had no difficulty in then saying (I will read the letter to you presently) when his society in London was engaged with earnestness in nursing an infant society at Stockport—a society that had held the language to which I must call your attention by-and-by—"That infant freedom was making Herculean efforts." He was not now talking of the king during the regency—not now talking at lord Hood's meetings—not now talking in favour of the king in the year 1785, or 1782; every one of such periods being those, in which, in these addresses, he himself acknowledges nothing could be done in this country; but in November, 1792, that gentleman takes the letter, addressed to Stockport, which is given in evidence, and in which he tells you—"That infant freedom was making Herculean efforts;—that the vipers," mark the expression gentlemen—"That the vipers monarchy;" what did he mean by that?—"and aristocracy, are panting and writhing under its grasp;" and then, this not being sufficiently expressed for him by the person who wrote the letter, there follows this passage, part of it in that gentleman's own hand-writing; and shall he, after that, say that he meant nothing but a representation of the people, more or less limited? Shall he, after that, say that it was his opinion that a king of this country is a good constituent part of this constitution? Then follows, I say, this passage—"May success, peace, and happiness attend their efforts." Well! but it is said, what has this to do with England? Why, I should be glad to know what it has to do with any thing else but England. This was in the month of November, 1792. Attend, gentlemen, to the letter sent from persons at Sheffield—the editors of the Patriot! That Sheffield, which sent members to the Constitutional Society—I do not know whether it sent members, but which had associated members in the Constitutional Society in London; that Sheffield which, at the instance of the society in London, sent a delegate to the Scotch Convention; that Sheffield, in which had been the memorable proceedings of Yorke; that Sheffield, which desired care and attention from the Constitutional Society in London, to the Infant Society at Stockport. Now are these places in the kingdom of Great Britain, or in France? If there is any doubt as to these proceedings, I beg of my lord that he will be so good, when this cause is summed up, as to call your particular attention to every passage in what I am alluding to—and then

decide for yourselves, whether this is not, in fact, a recommendation from the gentleman at the bar, to treat monarchy in this country as a viper, which ought to writhe under the grasp of what is called infant freedom.

Gentlemen, I positively deny, and I beg my lord's opinion also upon this when he sums up, saying at the same time that if any one overt-act in this indictment is proved, the gentleman must be found guilty; I positively deny that it is at all necessary to your finding this gentleman guilty of this indictment, that he should have given his consent at all to the constituting that convention, to the constituting of which he did give his consent. If it be necessary to prove that he did so, I shall prove to demonstration. But I go a great deal farther than that—for I believe my friend will not deny to-day, any more than he felt a disposition to do so a little while ago, that, if such books as Paine's were actually published in the prosecution of a traitorous intention to depose, which includes the intention to kill, the publication of such a work would be an overt-act of high treason. Now I put it to you, and desire my lord's opinion upon that also, when he comes to sum up to you, that there are many, many acts done by the Constitutional Society, and, among others, the articles of their publications, which, as jurymen, you must say upon your oaths, do amount to overt-acts of high treason, in order to incite his majesty's subjects to depose the king.

Gentlemen, I say also, under the correction of the wisdom that presides here, that, if you should even be of opinion that the gentleman at the bar did not mean to depose the king, but that on the other hand he meant to compel the king by force to take a different parliament than that which the law and constitution of England has given him, that parliament—permit me to call upon you to recollect his coronation oath—that parliament, according to the laws and statutes made in which, and the customs of which, the king is bound to govern, sworn to govern, and therefore must govern—that if such was the meaning, the cause is made good. He ought to lose his life, and I trust would be willing to lose his life, rather than to govern contrary to that coronation oath. If they meant to compel him by their number, and by their force, to take, without the assent of his parliament, for I desire I may be understood to state it to be without the assent of his parliament, to take another representative body, that intent, acted upon, would be treason, and I apprehend that there are measures enough in this case to show that there is treason even upon that ground.

Mr. *Tooke*.—What! Is the attorney-general talking treason?—I should be unhappy to mistake you—did you say the king ought to lose his life, if he took any other parliament?

Mr. *Attorney General*.—It is really difficult to decide for one's self, whether this interruption is, or is not, proper.

Mr. *Tooke*.—I ask pardon of the learned gentlemen, and I promise I will not interrupt him again during the whole of his reply. I only wished to know whether in prosecuting me for high treason, the attorney-general intentionally said something far worse than any thing he has imputed to me.

Mr. *Attorney General*.—I am very much obliged to the gentleman—I say this—that the king of Great Britain is bound by his coronation oath to govern according to the laws established in parliament, and the customs of the same; that he is bound by that coronation oath to resist every power, that seeks to compel him to govern otherwise than according to those laws—that it must, therefore, be understood, that the king of Great Britain would resist such a power as that—because he would be acting only in the exercise of his sworn duty; and in resisting such a power as that, he must inevitably lose his life.

Now, gentlemen of the jury, you will permit me here, having stated this to you, to say, distinctly, that I will not consume one moment of your time, or not above one moment, in referring to the transactions of 1780, of 1782, and 1785, with respect to certain persons, who attended meetings in this kingdom with a view to reform; whether these meetings were constituted of delegates or not; whether these meetings were constituted or not constituted of persons, some being delegates, some not—it does not appear to me that the facts relative to these meetings have any possible application to the case which it is my duty to submit to you. Gentlemen, I do not state this case merely thus, that the gentleman, with the assistance of his affiliating societies, as I call them, understanding that to be the effect of the proof, meant to bring together a body of persons, who were to influence parliament in the way that Mr. Sheridan stated that that body of persons who were to meet in 1782, or 1785, meant to influence parliament, but I say that the case that I have to prove is this—that they had no idea of acting upon any degree of influence, which either the number or the affiliation should give them, to induce *parliament* to take any measures; so far from it, that they expressly stated, that parliament was not to be applied to—that they went to the extent of stating, that parliament could not be applied to, because parliament was incompetent, upon their principles, even if so disposed, to give them relief.

Gentlemen, I do not at all enter, very far from it, into the nature of such a meeting as that Mr. Sheridan spoke of yesterday; and I tell you why I do not—I have had experience enough in life to know, that a man neither does any good to himself, nor to those whom it is his business to address in his profession, by giving his opinion upon a state of

which is not before the Court, in order to bring the Court to a just conclusion upon a state of the measures which is before the Court. I can very easily conceive, that, with very small shades of difference one way or other, what was done in 1780, and 1782, or 1785, might be either criminal or innocent; but whether it was criminal or innocent it is not my duty to discuss here, because, I say, it is nothing like the case I have to submit to your attention—for the case which I have to submit to your attention is this—that the Constitutional Society in London, or, as I should rather say, to do justice to the ideas which occur to me, as the effect of this evidence, the gentleman now at the bar ruling that Constitutional Society, and modelling the Corresponding Society, and governing, to the extent in which I hope to satisfy you from the evidence, he has governed, the affiliated and associated societies here (for I will give him credit that there are no societies in France, though the evidence will hardly enable me to believe it, and that there are no societies in Ireland in connexion with the societies here)—but governing the affiliated societies in England, that he meant to bring about a convention of the people as early as the 16th of April, 1793—a period I desire you will never lose sight of; that it was avowed, in his society and the Corresponding Society, that this was not to be a convention which meant to apply to the executive magistrate—which meant to apply to the parliament, but a convention which, by its own power and strength, was to alter the government of this country; this was the project, not generally so early as 1793; but, I say, as to this gentleman, it was avowed to be his purpose as early as the 6th of August, 1792. He was consulted upon the address of the Corresponding Society of the 6th of August, 1792, which avows this purpose; and I say that he made that address, to all intents and purposes, his own.

I cannot, however, part with this circumstance about the associated societies in France and Ireland without saying one word about them. It was, as I understand it, the tenor of the gentleman's cross-examination of the witnesses upon the first night to intimate, that it was all moonshine when they talked of twenty-thousand copies being distributed of some things, and an hundred thousand copies of others, and twelve thousand of Paine's works, and so on—that they meant nothing at all by it. Gentlemen, I know this that the Revolution in France was, in a great degree, brought about by things that had precisely the same meaning. Men were taught all over the country that there were a hundred thousand people here willing to concur in given measures, fifty thousand there, and a hundred and fifty thousand in another place; this was done, which no moral man can justify by the publication of papers, importing, that the number of the members of the societies required a thousand copies of one paper, and ten thousand of another, and a hundred thousand of a third; and the public were made to believe, that the persons engaged in their schemes were infinitely numerous—Why? because those who wished that such a notion should be received, meant that the country should act upon that persuasion in the manner that men, who believed such to be the truth, were likely to act; and that the country should do that mischief which they were persuaded persons, conceiving their party so numerous, would be willing to do. Now you will give me leave to begin with the first piece of evidence that is stated to you. First of all, I shall remark to you this, that my learned friend, who spoke last, has said—and I desire, on the part of the public, to have the due advantage of it, and no more—he has said, that when we call witnesses that speak in the manner that Mr. Sharpe and Mr. Symonds did, you must give full credit to those witnesses on the part of the prisoner. I agree to it, gentlemen; but permit me to call your attention to this circumstance—My friend, when opening the case on the part of the gentleman at the bar, said, "Why, Mr. Hardy was acquitted, and therefore I can call him as a witness." He afterwards said, "I won't call him as a witness in this cause; but that as against Mr. Lovett the bill was not found, therefore I can call him as a witness." He will give me leave to add, that he might have called as witnesses every man of the Constitutional Society who was present; and you will find clearly sixteen, eighteen, or twenty in number, present at almost every meeting; he might have called every individual of the Constitutional Society to have proved any one circumstance which it was material for the case of Mr. Tooke to prove. He has called not one, according to my recollection, but Mr. Symonds, who most undoubtedly did not know one-tenth of the facts that the gentleman had been engaged in; from whom I won't say they have been studiously concealed, but it is enough for me to say, in point of fact, he did not know them, though a member of that society—

Lord Chief Justice *Eyre*.—Except captain Harwood.

Mr. *Attorney General*.—And with respect to major Cartwright, and captain Harwood, in the first place, major Cartwright, I am extremely sorry to say, it is not my practice, I believe those who know me know it is not, to speak of any gentleman, unless the evidence in the case requires me to mention his name; but it is clear, that, in these transactions, between March, 1792, and May, 1794, major Cartwright himself is implicated to a very considerable degree: you will likewise recollect what he said to you. But you will allow me to say, with respect to captain Harwood, that he proved the truth of the case on the part of the crown; for you will recollect, and I call your attention to that letter of the 16th of

April, 1793, which I say is a clue to these proceedings from beginning to end; captain Harwood himself proved, that the letter from Norwich was delivered to him to be answered: that he sent it to another gentleman; that, when he came to the society afterwards, he found an answer prepared to that letter, and that that answer was sent with the consent of captain Harwood.

But it is said, gentlemen, that Mr. Hardy has been acquitted. Gentlemen, upon what principles that jury went which acquitted him I do not stay to inquire. I repeat it again, that my opinion about any case ought to lead me no farther than to determine this—whether it is fit that I should appear here as a prosecutor. I did my duty with respect to Mr. Hardy; I entertain no manner of doubt (because I cannot do it without a violence to the constitution of my country) that the jury were fully convinced that they did theirs. I have no doubt that they will always, upon reflection, feel that they acted as honourable men towards their country; and with this disposition towards them, I hope and trust that they did not think I acted as a dishonourable prosecutor towards the prisoner at the bar. But very, very widely different indeed are the circumstances of the case of Mr. Hardy, and the circumstances of the case of Mr. Tooke. I am sure my lord will remember it—that, though he stated, and rightly stated to the jury, that in law Mr. Hardy was a principal in the case, yet he stated that there were few circumstances that were sufficient to connect Mr. Hardy farther than the office of secretary connected him with these men. I say, and speak it with great deference to my lord, because there is no man who wishes to be more respectful than I do to courts, and more especially where I know it so well deserved from me—I say, upon a review of the evidence, there was a great deal more affecting him than was actually recalled to the consideration of that jury. But, be that as it may, Mr. Hardy stood in the situation of Broomhead; and it is possible persons may be told in London what persons were told in Sheffield—that a secretary was not to put a negative upon the proceedings of the society. This I am entitled, I think, to say, with respect to that gentleman, that it was quite impossible that he could misunderstand the proceedings he was about. Now, if Hardy be a witness competent in law to be called, I should be glad to know why he has not been called to explain the transactions in March, 1792, with respect to the constitution of the Corresponding Society—with respect to those resolutions that were sent to the Constitutional Society, with the name of "Hardy, secretary," in the hand-writing of Mr. Tooke. I should be glad to know why he is not called to satisfy you that the Constitutional Society, of which he had become a member as early, I think, as July, 1792, when they sent that famous letter of the 16th of April, 1793, to Norwich, had not communicated their purposes, either by Mr. Tooke or any body else, to the London Corresponding Society, which sent a letter of the same purport and import to the same societies at Norwich, namely, that they were not to look to the king—not to look to the parliament, but to look to a convention. I should be glad to know why Hardy has not been called to prove to you that neither the Constitutional Society, of which he was an associated member, nor the Corresponding Society, of which he was an original member, either knew or meant that Margarot, who was a member of both—that Gerrald, who was a member of both—that Sinclair, who was a member of one, should do those acts, which I do assert to amount to treason in the Scotch convention. I should be excessively glad to know why neither Hardy nor Lovett have been called to state to you that Mr. Tooke had no manner of concern with the transactions at the Globe tavern, on the 20th of January, 1794. I should be glad to know why, with respect to the transactions of the 17th of January, 1794, no man has been called to tell you that Mr. Tooke, when he left the chair, previous to that offensive resolution with respect to Jefferies, which might have produced consequences in another part of this country that one shudders to think of—that when he left the chair, and when that Mr. Gerrald came into the chair, who was a member of that Scotch convention, and who was in the same room with Mr. Tooke, who is supposed to know nothing about the proceedings of the Scotch convention—I should be glad to ask why none of the numerous persons present at that meeting were called to tell you that Mr. Tooke not only left the chair but the room, and knew nothing of these resolutions. It does not belong either to the gentleman himself, with his great talents, or to my learned friends who defend him, not to know that all this is excessively material; and my learned friend let it out in his opening to you, that he would not call Hardy in this case, but he would call him in the next. He proposed to call Lovett, who could have told you who were the persons connected in the proceedings at Chalk Farm, and he has not ventured through the cause to call him. And I ask you, gentlemen, if, when you come to consider the proceedings of the 24th of January, 1794, in which "the most excellent address" of the London Corresponding Society, the substance of which I will state to you presently, is approved by the Constitutional Society, and approved in the hand-writing of Mr. Tooke himself—I should be glad, gentlemen, to know why none of the persons present at that meeting were called to prove what the words "the most excellent address" meant. I defy human incredulity to doubt that they meant the address of the London Corresponding Society of the 20th of January, 1794; and I ask why was not Lovett called to prove that Mr. Tooke

had no connexion with the transactions which took place at Chalk Farm; the resolutions in the Constitutional Society of the 27th of March, 1794, stating, expressly, that they are to have that meeting at Chalk Farm; connecting therefore Mr. Tooke with that meeting at Chalk Farm; and yet they have not dared to call one man of either society, neither of the Constitutional nor of the London Corresponding Society, to say that Mr. Tooke had no connexion with all these proceedings from August, 1792, down to the time at which I am now speaking. Gentlemen, give me leave to say, that the observations that have been made on the evidence produced on the part of the crown, compared to the fair effect, to the legitimate inference that is to be drawn from their abstaining from this evidence, are mere chaff, and must stand for nothing.

Give me leave now to apply myself to the evidence. Gentlemen, you have had stated to you the conduct of the gentleman at the bar with respect to the Revolution Society, I think, in 1790; now, here again, I make another observation upon the defect of evidence—for obsevations upon the defect of evidence are frequently as weighty as observations upon evidence actually produced. It appears to you in evidence, and I beg your attention to it—and I humbly beg my lord's attention to it—that the Revolution Society must have sent an address to the French upon the French Revolution in the year 1790. Gentlemen, I say now when I think of it, that I totally and absolutely deny that a correspondence with a foreign country not at war, cannot be, merely because the country is not at war, an act of compassing the king's death. If persons correspond with a foreign country not at war with the king, with intent, however, that mischief should be done, and with intent to create disturbance in this country (and it is utterly impossible, I think, unless you are bewildered with the vast quantity of evidence before you, that you can doubt that a correspondence of that sort has been carried on), such a correspondence may be an overt-act of compassing the king's death, within the statute of Edward 3rd; and if I do not make it out to be a compassing of the king's death, within the statute of Edward 3rd, I would rather suffer the pains of treason myself than call upon you to find a verdict against that gentleman.—Gentlemen, you have had nobody produced to you to state what the address I have been speaking of contained, nor what it was that occasioned this address to the French at a remarkable era in their history. The substance of this address in 1790 might give their true character to the proceedings of 1791 among the societies here.

Gentlemen, the constitution of France in the beginning of the year 1791, which was formed with a preamble to it, almost *totidem verbis* as that which introduces the resolutions of the Southwark Society, which are entered in the London Corresponding Society's book—that constitution of 1791 was built upon what had been called in France, and, with some degree of absurdity, every where, the rights of man—the rights of equal active citizenship; a right, which the gentleman at the bar, in his letter to lord Ashburton, does not seem to have thought need at least belong to any body: he then thought that there was a difference between an equal right to a share, and a right to an equal share of government; but the constitution of France of 1791 was built upon the principles of the rights of man, and this right of equal active citizenship. I have proved to you that Paine was an honorary member of the Constitutional Society—that Mr. Tooke was a member of the Constitutional Society; I never told you that he was the father of the society: my friend misunderstood me as to that. I certainly could not be so ignorant of its history as so to state it—that Mr. Barlow was an associated member of that society upon the recommendation of Mr. Tooke—that one and all of them foresaw that the rights of man could not be acted upon together with the existence of a king in France; and the whole tenor of the evidence proves, that they endeavoured to introduce into this country a government founded on the rights of man; to enlist the lower orders of men in a project by their physical strength, as I shall prove by-and-by, to bring about in this country a constitution founded upon the rights of man—reasoning thus, that because in France the constitution, founded upon the rights of man, must necessarily reject a king, as it did in 1792, therefore, if they could get a constitution in this country, founded upon the same principles, a king must finally be rejected here. It was not the constitution that they looked to, for, though that was the immediate object, yet the remote and ultimate object to which they looked, was the deposition of the king of England, as the king of France was to be deposed by the operation of the principles upon which the constitution was formed. I am sure that you must have been surprised, and that all must be surprised who read the address, which is in evidence, to the Friends of liberty assembled together at London upon the 14th of July, 1791, to celebrate the French Revolution, were the free citizens on the banks of the Loire, address their testimonies of brotherhood, and of good-will, to the noble sons of liberty who inhabit the happy shores of the Thames. They then state—" Whilst an impotent band of the factions are actively employed in the heart of France, and the proud nobles are carrying the poison of their calumny into foreign ports, whilst the priests are labouring to rekindle, by their pestilential breath, the extinguished torch of fanaticism, and the first of our functionaries has given to the people the example of disregarding his oath, our wishes and our sentiments lead us towards you, generous strangers, who are engaged in celebrating the French Revolution;

a happy presage of the revolution of the world. But why speak we of you as of strangers, you are our friends and our brethren; those only are strangers to us who desert them, and who excite wars in order to perpetuate their tyrannical dominion, and to rivet the chains of nations. The decrees which have established the French liberty, have been like the trumpet sounding the resurrection of the world; at our voice the nations have raised their degraded fronts, tyrants have turned pale upon their thrones, and such is the probable effect of this great revolution, that in a short time nothing will be remaining of them but the sorrowful and shameful remembrance of their faults, and of their crimes. Let the great ultra-montane Bramah excommunicate us, his impotent thunders will only serve to enkindle the fires which, in France, consume his effigy. We desire to live in the same communion with all the friends of peace, and of liberty, and the oppressors of the people are, in our eyes, the only schismatics." And then they state to this society in London the address which I am now reading to you—"With what inexpressible pleasure have we seen your brave countrymen, our happy precursors in the cause of liberty, who reside in France, enrolling themselves under our standards, and augmenting the number of the members who compose those societies." Now attend to this—this is addressed to Englishmen—"formed on the pure principles of citizenship, of which" what?—we in France?—No, "of which you were the first institutors, and which are the unshaken column of our sublime constitution. When a few years are elapsed we shall see the two first nations of the earth, England and France, united together in a holy league to avenge the human race of those unpunished outrages which have disgraced it during so many ages."

"Generous Britons, love us, and unite yourselves with us, and the world will be free and happy."

At what period it was that Paine came over to this country, I am not able to ascertain to you, but this is clear upon the evidence, that he frequently attended this Constitutional Society. It is clear also, upon the evidence, referring you to that paper, in which Mr. Tooke modified the constitution of the Corresponding Society, and to that paper, to which he signed the name of Hardy, that Mr. Tooke was likewise the author of the Corresponding Society. Permit me to make a remark here—that the Society for Constitutional Information associates with itself twelve members of the Norwich—associates with itself twelve members of the Sheffield society, and of many other places, not one of whom are called to you, even to prove that they knew of the fact of the association, nor to contradict the suspicion, for I state it as such, that arises upon the letter from Sheffield, in which you find occasionally the hand-writing of Mr. Tooke, not one person is called to you to prove that all this association and affiliation was not the work of the gentleman at the bar. At first you see associated the London Constitutional Society with the London Corresponding Society, with the Sheffield, Manchester, and Norwich societies; you find afterwards that they connect with Derby, with Leeds, with various parts of this kingdom, and various parts of Scotland. Look now to their correspondence—What is the nature of it? Now, gentlemen of the jury, how am I to argue this? I wish to do it with respect to the gentleman, but I do not know how to express myself. An attempt has been made to inform you that he not only is not a friend to universal suffrage; that he not only is not a friend to the destruction of monarchy in this country, but that he is a friend to a limited reform of the representation in parliament, with a monarch in the country; and I say, if that reform is to be brought about by force against the king, it is high treason. Gentlemen, how does this matter stand? I beg your attention, without reading them all to you, to the communication with Norwich, and from Norwich—to the communications with Manchester, and from Manchester to the communications with Sheffield, and from Sheffield—to the communications with and from all the different parts of this kingdom which have communicated with the Constitutional Society, which, I say, is the mother society of them all. How is it to be reconciled to the design of persons, meaning well to the present establishment in their country, that the only works which they should circulate by their addresses to each other, are such works as the works of Paine—the Rights of Man, part the first, and part the second? Gentlemen, I call upon my friends again to state what it is that they could mean by circulating these works, if they were sincere in the intentions, which the evidence on the part of the defendant is supposed to bring before you? It is not in the power of any man living, I defy the most ingenious man that exists, to prove that either the one work or the other, take the whole together, is not a recommendation of the destruction of monarchy, and of the destruction of monarchy in this country in particular? But it does not rest there. You have had a witness who stated to you what were the parts that were prosecuted. And you have observed what a shift my friend was put to, to account for their publication of these works, The Rights of Man! I had no difficulty in saying that it is a question proper to go to a jury, whether the publication of the second part of the Rights of Man, of the letter of Paine to the people of France, and of the letter of Paine to Mr. Dundas, as applied to this country, were not published by the Constitutional Society for the purpose of overturning the monarchy of this country, and whether Paine was not defended with the same intent. Paine, you have seen, was prosecuted for the parts of his books, most of

rectly attacking the monarchy, and the monarchy of England, for it was the family that came from Hanover, the family that came from Zell—it was the monarchy of England, and the monarch of England that he reviled. The societies distributed his books, these friends to universal suffrage—these friends to the viper monarchy distributed his books.

Gentlemen, what do you think of men of talents acting thus? And professing themselves friends to the monarchy? What would my friend think of himself, if he had been communicating in the manner proved in this cause, with Broomhead at Sheffield, and with such persons as you have seen from different parts of this country, professing an intention, to recommend nothing upon earth but universal suffrage—to recommend nothing but loyalty to the king? I am persuaded there is nothing that I could say hard of my learned friend so acting under such professions, that he would think hard enough to be said of him. I cannot apply this sort of language to the prisoner; the humanity of the English law will not allow me so to do, but I feel this part of the case as a part most essentially requiring your consideration. Paine's works were published by different societies in England, and recommended in thousands, and hundreds of thousands of copies printed for the very purpose of infusing the doctrines they asserted, into the minds of the people of Great Britain, into the minds of the most illiterate of the people—Do recollect what sort of men compose these societies in the country! There is not, gentlemen, an individual in this country, who is not entitled to the providence of the law, and to the regard of the legislature, and the protection of the chief magistrate of this country, as much entitled as the proudest man in it. In their several situations they are all useful and respectable, and God forbid that I should state one single word that looked like disrespect to any fellow subject in this country! If then publications had been addressed to persons in this country, who having, with others, a common interest in supporting the monarchy of the country, felt that they had an interest in supporting the monarchy, by knowing upon what principles the constitution rests; by knowing, not only from experience, its value, but who were able to account for that experience by just conclusions and reasonings upon the nature of government; if these books had been addressed to such men, and such only, or if these books, dangerous as their doctrines are, had been even published in the ordinary modes of publication, one durst not then call them measures taken in the course of a conspiracy to overturn government—but when such books are addressed to men, who cannot possibly understand the distinctions that are to be taken between the different parts of them, and by men who do not explain upon what doctrines contained in them they do, and they do not mean to act, it appears to me that nothing but a purpose of mischief could be intended to be answered by their measures; and if there wanted a demonstration that they proposed mischief beyond what arises out of the contents of their publications, that demonstration is furnished by their holding out to mankind that their publications are more numerous, and the circulation of them more ample than they themselves knew them to be. Give me leave to call your attention to the letter of Mr. Barlow, of the 6th of October, 1792. I beg your attention to that letter, when summed up to you. It contains, in truth, the essence of this system of conspiracy. Joel Barlow, a co-member of the Constitutional Society with Paine, introduced to that society, as appears by the books, by Mr. Tooke, upon the 6th of October, 1792, writes to the Constitutional Society, and informs them that that event had taken place in France, which was expected to take place in France, in consequence of their having adopted the principles of the Rights of Man; he states to them, in effect, that it had been the reasoning of the Constitutional Society that such would be the case. He states that the principle of their society was to enlighten, and, by enlightening, to precede and preclude (he certainly uses the word "preclude") the exertion of physical strength—and what is it that his book says? Now I must add, that upon all these publications my friend did not say one word, and his learned coadjutor did not say more than a word! What is his book to prove? Why his book states, that the deposition of the king of France was the necessary consequence of the principles of that constitution, founded upon the Rights of Man, which had attempted to create in Europe so absurd a thing as a royal democracy, and that they were now about to get rid of their king. And this does not relate to the monarchy of France only. I beg your attention to that. It is a recommendation to the people of England to do the same act, as an act grounded upon the Rights of Man—Does Mr. Tooke upon that say why, Mr. Barlow, I have been at meetings in 1780, in 1782, and 1785—at a meeting about the regency—at a meeting of the Constitutional Society—at a meeting at lord Hood's Club; and I have stated myself, at each of these meetings, a friend to monarchy, and put on a coat with an orange cape; how can I receive this communication from you of a work so nefarious as this, without protesting that, being a friend to limited representation and monarchy, such a book as this shall not go out under the auspices of this society? Is that so? On the contrary, Mr. Tooke, with all the loyal principles he professed previous to 1792, consented to a vote of thanks to Mr. Barlow for this work—to that Mr. Barlow, whom Mr. Tooke introduced into this society; and not only a vote of thanks, but the address of Mr. Barlow, and the answer of the Constitutional Society are ordered to be published in the papers! Now

for what reason was that? For no other reason than this—that those persons, who were pretending to mean nothing but limited representation, wished to call the attention of the public to a work, in order to mislead the minds of the public, which recommended most distinctly the destruction of monarchy in the country.

Is that all? Mr. Margarot and Mr. Hardy, being the two leading members, give me leave to say, of the Corresponding Society, which society, as I before submitted to you, was created, or, if not created, modified by Mr. Tooke, they, upon two days I think in August or September, write to Mr. Tooke to know his opinion about a declaration to the National Convention in France. Now here is a remarkable circumstance! In June or July, 1792, when the principles of the French Constitution of 1791, had not yet rooted out of the constitution the king of that country, the Constitutional Society never thought, not they, of addressing the government of France, that had a king in it. They, therefore, addressed the club of Jacobins; but no sooner is a king deposed in that country, than at that moment the Corresponding Society, writing to Mr. Tooke upon the subject, propose to address the government of France, which had no longer a king, and the Constitutional Society forthwith address the government of France, so circumstanced with respect to royalty, as I have stated. Gentlemen, I beg leave to ask you what this means? I will not go through their two addresses again, by stating them, but I say I distinctly aver, and I beg and entreat your attention to it, these addresses are to all intents and purposes an expression of a wish of co-operation with those societies, and those persons in France, who had deposed the king there, to do the same here. You hear in this of the hope of an alliance—"Not of the three crowns" (mark the expression) of England, France, and America, "but a triple alliance of the people of England, of France, and America." You find in that address of the Constitutional Society, that when republicanism had taken place in America only, its effulgence could not enlighten the Continent of Europe, but, when this example had been followed in France, then, say these societies, mankind are to become free—then, say they, we are fellow-labourers in the same common cause with you, and being fellow-labourers in the same cause, "Britons, five thousand British citizens," says one address—says the other, "our hearts are with you, millions are for you"—"Britons, who are not yet free, are soon to become free"—and why? Because the principles of the Rights of Man have worked a king out of the constitution of France; and, that example being set in Europe, we may hope, will work a king out of the constitution of Great Britain. I refer you to these addresses; I insist no man can put any other construction upon them.

But is this all? Had not these gentlemen, and had not this gentleman at the bar, as early as September, 1792, an intention of bringing about a revolution in Great Britain by the efforts of a National Convention in England? Now, give me leave to call your attention to what it is that Mr. Frost, and that same Mr. Barlow—who had written that pamhplet—who had been introduced by Mr. Tooke into this society—who had sent that book, and had received the thanks of the society for the book—what is it that this gentleman states to the National Convention of France; and then give me leave to ask you whether the project of a convention to be held in England for the purpose of overturning the monarchy of England, or at least its present constitution, and its king with it, as far as he is to be at liberty to exercise any power of regal government, was not in the contemplation of this gentleman in October, 1792, as the necessary effect of what had happened in France? Gentlemen, give me leave to ask you here another question—What is the reason why Mr. Frost, who has been sitting in court great part of this trial, has not been called to explain this transaction? As early as October, 1792, Mr. Frost says—"Citizens of France, we are deputed by a patriotic society in London, called the Society for Constitutional Information, to congratulate you in their name upon the triumphs of liberty. This society had laboured long in the cause, with little prospect of success," (Gentlemen, mark these words) "before the commencement of your Revolution;" that is, your Revolution of the 10th of August, that glorious victory. Now, do I do them injustice, when they state this at the bar of the National Convention; and when, in the address from Nantes, the society there state that the Constitutional Society in England were the first institutors of the principles upon which the final Revolution in France had taken place?—"this society had laboured long, with little prospect of success, before the commencement of your Revolution. Conceive then their exultations of gratitude,"—that is, of the gratitude of this society—"when by the astonishing efforts of your nation, they behold the reign of reason acquiring an extension and solidity which promised to reward the labour of all good men, by securing the happiness of their fellow-creatures." Now, I beg your attention to the next passage; this is addressed to the President of a National Convention in a country that has rejected monarchy; and you, gentlemen, giving me that attention, which I call upon you by your oaths to give me, I call upon you to make true deliverance, according to the law of England, between this gentleman and the country, whether I have not, under their own hand, a declaration of their own purposes: "Innumerable societies"—this is to the National Convention—"Innumerable societies of a similar nature are now forming themselves at this moment in every part of England, Scotland, and

Ireland: they excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of reform." Does that mean an application to parliament? No. This is an address to a *National Convention*, the character of which I shall give presently, from the gentleman at the bar himself. " After the example France has given,"—now what is to become easy do you think?—" the science of revolution will be rendered easy, and the progres of reason will be rapid. It would not be strange if, in a period far short of what we shall venture to predict, addresses of felicitation should cross the seas," —to what?—" to a National Convention in England."

Now, I ask you how that National Convention in England was to be brought about? Was it not to be brought about, upon the principles of this gentleman, by these societies, which they state to the French National Convention were forming in this country: and upon the same system, for these are the words, upon which the National Assembly in France then existed? What was to be the effect, revolutions becoming easy in consequence of the introduction of that system upon which these societies were forming? Why is there to be a National Convention in England, such as the National Convention in France, to which addresses were to be sent from France? Did the President misunderstand them? It would be a most extraordinary circumstance to make it material that this was not a time of war; and this deserves your attention; for I say it is totally indifferent with respect to the effect of this evidence; and I beg and entreat I may have the correction of my lord, that I may not be wrong in stating, that it is wholly indifferent to the view in which I am representing the case, viz. to show that this society had a project of a convention, as contradistinguished from parliament, to overset the government of England; that this did not take place in a time of open war. Can an English jury mistake the intentions of this gentleman, when the president of the French National Convention so clearly understood them? Had he any views but those of the subversion of the monarchy of the country? Give me leave to tell you how that president addresses Frost and Barlow; and both these gentlemen might have been called by this gentleman at the bar to explain this transaction. Hear the answer—" Brave children of a nation which has given lustre to the two worlds, and great examples to the universe, you have addressed us with something more than good wishes, since the condition of our warriors has excited your solicitude."—Now, mark the next passage! Is this a fit thing for an Englishman—a friend to limited representation—a friend to the monarchy of his country,—to suffer to come into his possession an address from the National Convention, which had deposed a king, in a constitution with a representation as extensive as might be?—" The defenders of our liberty," that is, those who now defend our French liberty; and, for God's sake, who were they?—" will one day be the supporters of your own;" Gentlemen, I beg your attention to the interpretation of this passage, when I come to read one or two other addresses from that country—" you command our esteem, you will accept our gratitude; the sons of liberty through the world will never forget their obligations to the English nation." Here is what I do not like to apply a hard word to, in the case of a person standing charged with a crime; but here is the effect of that fraud which I complain of in their publications, and their misrepresentations of their numbers. Indeed, gentlemen, this is a most serious part of this case; for, when you recollect what the French Convention did, I think, upon the 15th or 19th of November or December, 1792, when they came to a decree that they would support all people, in all countries, who were pleased to assert their liberty against their constitution, no man living can ever seriously hesitate whether these very addresses were not one cause of the calamities of this country in which we are now involved.—" What they owe to the English nation;" now, who were this English nation, whose character these clubs dared thus to assume? why, you see what they are, and who they were, and this gentleman now at the bar is to tell you that their numbers were small, their funds inconsiderable; though I shall show you, by-and-by, that they thought, or represented that they thought, that they amounted to the representatives of 700,000 males in this country. They, defending themselves now against this charge, are pleased to turn into ridicule the numbers and funds of the society, by observations, which I shall satisfy you presently have nothing upon earth to do with the real merits of this cause; and yet they have no difficulty to represent themselves, speaking to the government of France, speaking of the government under which they live as the English nation. They then proceed thus—" The shades of Pym, of Hampden, and of Sidney are hovering over your heads, and the moment cannot be distant when the people of France will offer their congratulations to a National Convention in England."

Now, I would ask you, gentlemen, if the president of the National Convention of France, such as it was at that day, when it was addressing itself to Mr. Frost and Mr. Barlow, ever thought of sending an address to a National Convention of England, like those meetings or conventions which were talked of in the year 1780 or 1785, which were to submit to the parliament of Great Britain the petitions of the people, with such effect as those petitions presented by delegates, rather than by individuals, might have.

Gentlemen, I feel this as a grave part of the case, I will press nothing improperly, but

I desire the case may be as gravely heard as I shall state it. What says the president, again—"Generous republicans, your appearance in this place will form an epoch in the history of mankind; history will consecrate the day when, from a nation long regarded as a rival, and in the name of a great number of your fellow-citizens, you appeared in the midst of the representatives of the people of France, and she will not forget to recount that our hearts expanded at the sight. Tell the society which deputed you, and assure your fellow-citizens in general, that in your friends the French you have found men." Now, did the gentleman at the bar do otherwise, with respect to this, than he had done with respect to the publications of Barlow and Paine? By the way, I forgot to tell you that, though he disliked these publications of Paine so much, as far as they related to monarchy and aristocracy, he had no objection, as Jordan's evidence states, to be consulted about the publication of them—he had no objection to go, as Chapman states, with Paine to the bookseller's while they were printing—he had no objection to send them forth, as far as communications made by the society, as far as the Society for Constitutional Information could send them forth, in their imperfect state, and without one hint how those to whom they were addressed could discriminate the bad from the good parts. Had he any objection to receive this communication from the National Convention of France? Had he any objection to being considered as a generous republican by the president of the National Convention of France, which, for important reasons, he has an objection to being considered by a jury of his own countrymen now? Did he tell Mr. Frost—Sir, you have mistaken this errand as our delegate; you have mistaken the errand to the convention in France? Did he tell Frost he had exceeded his commission? Did he tell Frost that he had been guilty of a daring abuse of the confidence placed in him, so to state them to the president of the National Convention? and that, in addition to the guilt of that daring abuse, he was guilty of a daring insult to bring him back such an answer? No! But, as they had thanked Mr. Paine in the books of the Society for Constitutional Information, and had ordered 12,000 copies, in one instance, of a work of Paine's to be published, Mr. Joel Barlow and Mr. Frost are paid for this great and loyal work which they had been doing—they are paid for bringing back to England the sentiments of the president of the National Convention, that the Constitutional Society were "generous republicans," and had the thanks of that society given to them; and not only given to them, but, unless I miscollect the evidence, with a view to draw the public minds to the transaction, the thanks were ordered to be published in the public newspapers.

The establishment of a National Convention in France, was not the first period in which a convention to overturn the government of Great Britain was thought of; but here I call back your attention to a most important part of the evidence in this cause—I mean,—and I beg to state it to my lord's recollection too, for it appears to me to be a paper most excessively important in this case, and a paper which, as I think, would have prevented the possibility of any man in any of these societies contending that he was acting upon the duke of Richmond's plan—I mean the address of the 6th of August, 1792, of the Corresponding Society.

Gentlemen, why do I state this to be important?—because it helps to ascertain the end with respect to which the Scotch Convention in 1793 was to be formed—because it helps to ascertain the end with respect to which the convention, which was to be held in a secret place, that was not to be named, in the year 1794, was to be formed. In August, 1792, Margarot and Hardy consulted Mr. Tooke upon an address—I do not say that he sent them an answer, because I cannot bring proof of that—but having consulted him upon the rough copy of their address, previous to its being printed—the address of the London Corresponding Society to the nation; in this they detail abuses, some with truth, for, gentlemen, there is no government in which some abuses do not exist; and one of the practices of which this country has most to complain of in these societies is this, that they do not allow men of ordinary understandings to distinguish between abuses in the administration of the government, and vices in the form and constitution of the government. This forms the wickedness of corresponding with such people as Broomhead. Where Mr. Tooke got the name of Broomhead, to associate him with himself, in the Constitutional Society, I cannot conceive; but this forms the mischief, and, I am sorry to have to use the word, the wickedness; but this forms the mischief of corresponding upon such subjects with such men, unless you explain most fully to them; I say explain fully, because there is no subject, perhaps, that you might not write to any man safely upon, if you do not mislead his mind, but act honestly with him. In this address of the 6th of August, which was afterwards approved of in the Constitutional Society, and Mr. Tooke has not dared to call a single witness out of the Constitutional Society to contradict what appears upon the book as to this circumstance—in this paper, dated upon the 6th of August, 1792, a year before the Scotch Convention was thought of, a year and many months before the English Convention was thought of, they distinctly state to the world, after stating those grievances—what are we to do? are we to look to the king for redress? to look to parliament for redress?—No! we are to look to these societies for redress! to look to the effect of these societies for redress! And on

there be any doubt for what purpose they were to look to those societies, unless you can be men credulous enough to believe, that those who disavow any application to parliament mean an application to parliament; and that those who hold a language to France about a National Convention, such as I have stated, held that language not about a National Convention in England, to act as they acted in France, but about a National Convention in England, to address that parliament which they distinctly state they will never resort to? This is not all. Look at the works of Paine, which these societies have disseminated—look at the works of Barlow, which these societies have disseminated; they do not only state the folly of applying to parliament, but they go farther, for they state, in the most distinct terms, that if parliament were even to give them a new constitution, they ought not to take it if it was not consistent with the principles of the rights of man. Is a jury of Englishmen then to believe that men, professing those opinions, meant, contrary to the very obvious tenor of their language, to do that which my learned friends have been obliged to insist, and which it is necessary for their purpose you should believe they meant? My learned friends have never contended for their innocence, if they meant to have such a National Convention in England as they had in France; it was not contended for, or but faintly at least, if that was the thing designed. My learned friend says now, if it was intended to be brought by force! If he allows to me that they meant a National Convention——

Mr. *Erskine.*—No, you know I do not allow you any such thing.

Mr. *Attorney General.*—Gentlemen, I say the counsel have not ventured to state, that if they meant such a National Convention in England as they meant in France, and that National Convention was to act with force, that the gentleman ought not to be upon this indictment found guilty.

Now, gentlemen, give me leave to ask you another thing. The counsel for the gentleman find it absolutely necessary, in some way or other, to apologize for the publication of Paine's works. You have heard how they apologised. I insist upon it, before you, and put it to my lord to tell you whether I insist upon it rightly, for what counsel say ought to have no weight, except so far as it is confirmed by the Court, and your reason adopts it—I do affirm, before you, that if those books of Paine's were published, one after another, with a view finally to bring about a National Convention in England, which was to overset by force the government of this country, that the publication of any of them is high treason.

My friends have said, Is the attorney-general here to be such a monster as to indict all the Constitutional Society, with all the people that have been guilty of these things? God Almighty forbid! If you don't find the gentleman know the meaning of what he was doing, he is not an object of prosecution. This argument would have done in the rebellion of 1745 and 1715, when a hundred thousand persons were concerned in treason, but the principle of the policy of the law of England is this, not to apply the law to all persons to whom it is applicable; but to apply it to such persons to whom it is fairly applicable, that by force of the example, obedience to the law may be secured. So I say here, I prosecute this gentleman in the discharge of my bounden duty, having received his majesty's command, he being advised by that constitutional advice, in which he acts in every circumstance of his royal character and capacity. I bring him here as a principal person, understanding the whole of this transaction, and knowing what the meaning was, and what the project was, which he was finally to accomplish.

Gentlemen of the jury, give me leave to ask you, did it not appear to you that the leading counsel for the gentleman at the bar, found the necessity of apologizing for the publication of Paine's books? He mentioned to you a circumstance as a fact, which I won't take notice of, because it was not proved, and one could wish that, in the administration of justice, such things never were mentioned, because it disables the fair administration of justice. Unless when he took leave to mention what I allude to, he had told you also that there was an idea that Mr. Paine would not be able to support the expense of a prosecution, I was sure my friend would not attempt to prove it. I say no more upon this circumstance, but whether there was such an idea, or not, that he could not support that expense, is it in any way material? Look at the resolutions we have read to you—at the very instant when a prosecution had been commenced by his majesty's then attorney-general* against a book, which I venture to say has done more mischief in fact, whether its publication be high treason or not, than all other libellous publications put together. When his majesty's then attorney-general set about prosecuting the book, what did the Constitutional Society do? Those friends to limited representation, and to the constitution of the government! The prosecution was commenced against those parts of the book which run down the monarchy of the country. Paine sends them word that he is going to publish a cheap edition of those works, and there being merely the rumour of a prosecution, and Mr. Paine, I believe, not stating to them any thing like inability to defend himself against the prosecution—upon the mere rumour of that prosecution, they form a committee to

* Sir Archibald Macdonald; at the time of this trial, lord chief baron of the court of Exchequer.

inquire whether there was any truth about it, or not. Why, if the gentleman at the bar had really thought, as he is said to have thought about those parts, which relate to the monarchy of the country, could he have supposed that it was possible that there should not be a prosecution about it? Would not he himself have been disposed to hold the language which he held in 1780, 1782, 1785, and 1789—would he not have said, Mr. Paine how can I contradict all the passages of my life, from 1780 to 1789, and become a subscriber to defend you against a prosecution for a work, which prosecution relates to those parts of your work, which I have always been condemning—(which I have nevertheless been sending to Sheffield, Norwich, Manchester, and various other places)—how can I join in protecting you against such a prosecution as that? Why! Because it is impossible for me to say that the law of the land is to be thus insulted. Gentlemen, I beg your attention to this, for it has a most important influence in this cause. It belongs to the juries of the country to say, whether the government of England shall be equal to the functions which the law of England has given it; but I venture to say that if books are to be published and dispersed in the manner in which the Constitutional Society have published and dispersed the works of Paine, sometimes in the name of the Corresponding Society, and sometimes in other names; that the frequency of the occasion for the application of the law of England makes the law of England a dead letter. The liberty of the press must be under due animadversion of the law; it must not be under more; but the liberty of the press must never be so used as that by the frequency of the licentiousness of it, it shall palsy the arm of the law, and make it unequal to its functions.

Gentlemen, is this all? I will suppose a case for the sake of an argument, which one has heard in almost all cases of libels; be so good (as it is said in such cases generally) as to look into all parts of these books, the Rights of Man, part the first, and second! Do not condemn a person prosecuted for the offensive parts of a work; do not condemn him for parts, for upon the whole he meant well. There are, as a witness had told you, offensive parts in the Bible: is a man, therefore, not to read the Bible?—you must certainly take the whole works together, and I am content to say if, looking at both parts of the Rights of Man, and looking at them attentively, you can have any doubt of their being published with an intent to affect the monarchy of this country, that then the defendant is to have the benefit of every part that he chooses; but I defy you to find an apology for printing and publishing the letter to Mr. Dundas, which states, in the most distinct terms, the folly, absurdity, and nonsense of hereditary monarchy in any country, and that is published, and you observe, from the paper read to you, not by Paine. If I was to publish Paine's works, printed by others, improvidently, without an evil intention, I do not say but, that in that case, the necessities of public safety might require that the question should be distinctly put to a jury, whether I did publish them without an evil intention; but what is to be said, if a man sets up a press, and prints them, and so publishes them to the world? He is to all political intents and purposes the author of them. Now what is to be said for the society for Constitutional Information, with respect to the publication I last mentioned, and for the Corresponding Society, when it published the letter of Mr. Paine to the people of France, at the time that that honorary member, or occasional visitor, call him which you will, of the Constitutional Society, became a member of the French Convention? This is an important fact—he was at that time, or was about to become, upon his own principles a member of that National Convention, which his co-associates in the Constitutional Society, Frost and Barlow, were afterwards to address.

Gentlemen, the passages in this book are not to be misunderstood, and why the Corresponding Society published this book in England, or why the society for Constitutional Information published the other book in England, except for the purpose of its having an effect in England, and not in France, is a question that the counsel for the gentleman have not even ventured to state, much less to discuss. Now, gentlemen, you will find that they state here thus—"When those contradictions shall be removed, and the constitution be made conformable to the declaration of rights." "When the bagatelles"—now these are the publications of men well attached to monarchy in Great Britain—"when the bagatelles of monarchy, royalty, regency, and hereditary succession shall be exposed, with all their absurdities, a new ray of light will be thrown over the world, and the Revolution will derive new strength by being universally understood." And in another passage it is stated—"It is no longer the paltry cause of kings, or this or that individual, that calls France and her armies into action, it is the great cause of all, it is the establishment of a new era, that shall blot despotism from the earth, and fix on the lasting principles of peace and citizenship, the great republic of man." France was fighting for liberty—for what? For herself? No! that she might carry the standard of liberty into all nations; and this is the address of the Corresponding Society to the people of France, published for the benefit of the people of England.

Why, gentlemen, this is precisely in correspondence with what Barlow had been doing upon the 6th of October. This is precisely what Paine foretold in his Rights of Man, that Mr. Paine, who has been such a friend to Great Britain, and who distinctly

states that he endeavoured to get an opportunity to come over from America to England, without being known, and to remain in safety till he could get out a publication that should open the eyes of the country with respect to the madness and stupidity of its government; he who was to show that all this government was stupidity and madness, is associated a member of this Constitutional Society—and it is the uniform language of all the publications, that those principles, the unalienable, imprescriptible principles of the Rights of Man, necessarily lead to the deposition of a king; and, with that proposition distinctly and clearly before them, and published by them, it remains yet to be stated to you why those publications were circulated in Great Britain.

As to what the gentleman at the bar meant by a National Convention, and what it was to do, I refer you again, without going through it, to the letter of the editor of the Patriot at Sheffield, and to the answer which has that passage in it about monarchy and aristocracy, which has been frequently mentioned to you; and I beg also to refer you to a letter sent to the Corresponding Society, the connexion of this gentleman with which, I think I have most fully established; a letter from Stockport in September, 1792, that Stockport, the freemen of which the London Constitutional Society state, in the letter of the 9th of November, to be fellow-labourers with them in the same cause—in the cause of that freedom, which was to destroy the vipers monarchy and aristocracy. What do the freemen of Stockport say in this letter to the London Corresponding Society of the 27th of September, 1792? Why they say, adverting to that paper of the 6th of August, 1792, which came from the Corresponding Society, and with respect to which the gentleman at the bar had been consulted; they say that your paper of the 6th of August, 1792, does not rise high enough; we, freemen of Stockport, we wish to be governed by no power that has not been immediately constituted by ourselves; they say that the parliament is incompetent to the work, whilst the House of Lords retains its present authority in the legislature, and while the bench of bishops retain their seats in the House of Lords. They say, will not the evils be done away all at once by a convention, and then the answer, which is written in the same month of November, I think, from the Corresponding Society by Mr. Margarot, an associated member of the Constitutional Society, and Hardy, an associated member of the Constitutional Society; that letter, to which also I beg your attention when this case is summed up, it states to these persons—"That they are glad to find them so hearty in this cause, that they speak out"—that is the language of the letter—"as far as prudence and discretion will permit them to speak out.—You assure us," say they, "that numerous other reforms will follow, if a universal representation of the people was obtained." Numerous other reforms! What other reforms were to follow? Why, say these persons, writing to the Stockport Society, "get that, and all the other reforms that you want will follow. Point your object to that—that is as much as we can, in prudence and discretion, at present declare; and our addresses," they say "are stated in as strong language as we can now venture." Now what was the strong language which they could then venture?" Why, neither more nor less than this—that they would seek no redress of the king, that they would seek no redress of the parliament, but that they would seek redress in their own societies.

Gentlemen, it was farther necessary to teach in Great Britain what was meant by a convention of the people.—The people of this country are extremely wedded to the constitution under which we live. Opinion is the great support of this government, as it is of every other, and we have formed our opinion upon the experience of ages. I say for myself, as a subject of Great Britain, I hope I shall be in my grave before we part with the benefit of that experience. I believe, gentlemen, that most of the individuals who have been misled to form the Scotch Convention, and to meditate another convention by the effects of resolutions, and circular letters, and meetings in the open air, and a great many other things, that my friends have not ventured to take notice of in this great cause; I believe, gentlemen, they would once have said with me, may we all be in our graves before this change of system shall take place! That there are evils in the government of the country, no man will deny; but that they were felt in that extent, in which the country societies have been taught to feel them, and in which the country societies have been instructed to teach others to believe them, I do not believe; and I refer you to the letter to the editor of the Patriot, as a proof that this country would have been, in its union of sentiments, undoubtedly the happiest country in the world, as I believe, in fact, it still is, notwithstanding the propagation of these doctrines, if these doctrines had not been propagated with that art, which makes the power of the law unequal to the mischiefs which are committed against it. You would have seen, but for this, little of the transactions, the nature and tendency of which we are discussing here this day.—It was necessary to work down by art the love and affection of the people of Great Britain for their constitution, not of those friends to limited representation living in London, that enlist all men alike, or the society at Stockport, that will take no government but what their society constituted, but of men in other places, whom they associated with themselves, and who had doubts and fears about their views, who ask them if they mean to pluck of monarchy by the roots—to such men it was ne

cessary to hold a dark, cautious, mysterious language—to others, who desire to be satisfied, it was necessary to state nothing openly, but to say, get only this representation, and all will be right; and, in short, it was necessary to put together, if I may so express myself, into the coach that is to go to Hounslow, and beyond Hounslow, all sorts of men, some to get out short of Hounslow, some to go to Hounslow, some to another place, and some to the end of the journey. For the purpose of carrying their project into execution, they enlist all men, of all sentiments, with respect to government, and, at a hazard, the extent of which they see. Do they not do these things I desire of you to determine, when you come to do that justice which you are to do your country, and the gentleman at the bar, who is an essential part of your country, and whose country, upon this occasion, you are—Do they not do these things, resolved to carry their project, even if it was a more limited project, into execution, though it could not be done without the hazard of enabling others to effectuate farther purposes, which they would now disavow. When the coach had got to Hounslow, this gentleman, perhaps, might not be able to get out; when he had driven other persons in the coach there, the persons in the coach might have driven him farther; but I do not see that it is a sufficient excuse for a man's going, apparently for a common purpose, with others to Hounslow, who, he knew, intended to go a great deal farther—that he had, in his own mind, an intention to stop there—One exertion of the art I have spoken of, was, to take care that the character of a convention should be taught in England. They have told you, on the 6th of August, 1792, that they were to have nothing to do with the parliament—that is the effect of the evidence—they have addressed the National Convention in France: they have received an answer from the president of the National Convention, under the circumstances I have mentioned: if these addresses meant nothing with respect to England, what are we to say with respect to their transactions, as far as they relate to citizen Barrère, to citizen St. André, to citizen Roland, to those two entries in the Constitutional Society's book, where they state the speech of Barrère and St. André, as given in the Moniteur, I think, of the 4th, 5th, 6th, and 7th of July. I ask now, for I have not heard it stated, what was the purpose of this? What object could the Constitutional Society, which has done all those acts, with respect to a National Convention, have in view by this? Did those who came to this resolution, and not only came to it, but who ordered this resolution to be printed in the public newspapers, did they mean any thing by it, or nothing? If they meant any thing by it, I should be excessively glad that human ingenuity would tell me what it was that they did mean by it, but to draw the attention of the public to the nature of that convention, which they themselves were to speak of, and hereafter to institute in different parts of this kingdom. Gentlemen, I cannot believe, because how is it possible? I am sure, if it were possible, I should be very glad to state it to you, to say to you, that calling the public attention, to what I am now going to mention to you, is consistent with any of those passages between 1780 and 1789, that you have heard of in the transactions of the gentleman at the bar. You will give me leave, when I state to you that I know not how to reconcile them, to beg that you will attempt to do it on the part of the gentleman at the bar.

Gentlemen, you observe that the resolution for admitting citizen St. André into the Constitutional Society, has been produced in the hand-writing of Mr. Tooke. You will recollect also, that not one single individual of the Constitutional Society has been called to you to explain this transaction. Now these speeches contain two things; they contain first, a discussion of that principle of the law of England, the inviolability of a king, that is to say, the constitution of this country has in it a principle, which holds that the king can do no wrong, making other persons in every exercise of the power, which he has under the constitution, responsible for the advice which they give him. Our constitution has held the king inviolable. I ask you, why was the public attention to be drawn to a French newspaper, containing a discussion upon the folly and absurdity of the inviolability of a king? I ask also if it was the purpose of these persons, and particularly of the gentleman at the bar, that there should be a meeting of delegates in this country to influence parliament, and, through the organ of parliament, to bring about a reform in the government of the country?—Whether that influence was due influence or whether undue influence, I should be glad to ask you, when you come to attend to this passage, with such observations as you will hear upon it? On the last trial it was stated, and felt as fit that it should be understood, that the prisoner, then tried, could not be answerable for the French, so much as came from France, which was not translated, and which he could not understand, that he could not be answerable for it, as the gentleman must be answerable, upon whose motion these things are adopted: I ask you for what purpose the public attention was to be called to the nature of a National Convention? And now, gentlemen, I will read to you what it is that the attention of the people of England is called to by this address, in January, 1793.—"The people of Paris, by making a holy insurrection against the king,"—a very odd thing, to make a holy insurrection against the king—"on the 10th of August, deprived him of his character of inviolability; the people of the other departments applauded this insurrection, and adopted the result of it; the people have, this

ready interposed to destroy the royal inviolability.—Louis was invested by the tacit consent of the people with a constitutional inviolability; their tacit consent has deprived him of the same, and is, therefore, as lawful as the grant of it. The inviolability of the king cannot be absolute, it is only relative, and for the end of maintaining the independence of the constituted authorities." Now of what earthly use could it be that the people of England should be taught this with respect to the king of France? Of what earthly use could it be that the attention of the people of England should be called to this doctrine? Certainly it is not to be stated in a court of law in this country, as consistent with the law of England, that they should be taught these principles. To whom were they to apply it? Were they to co-operate in establishing the inviolability of the king of France? Were they to assist in the holy insurrections, which had amounted to what is called a tacit repeal of this inviolability? What is the purpose of this gentleman, but to tell the people, who are to meet in that National Convention, which I shall insist upon presently, it is perfectly clear before you upon the evidence, was what those persons meant to call together in England, and, in fact, had called together in Scotland, to the most serious alarm of the country (I seriously doubt whether any man in this court this day, sitting under the commission of the king of England, if that body had been suffered to sit in Scotland, I speak the sentiment that fell from the Court upon the last cause, would have been suffered to remain in a capacity to try these causes) to tell those people that if the convention, wherever called, found it necessary to carry its purposes into effect, even by holding the king violable, they were to consider themselves as being in that state of holy insurrection, that would justify them in the same measures, which the Constitutional Society, by recommending those people to their notice, say was justifiable in France.

What is the idea of the gentleman, taking this paper to contain his idea, of a convention? And see how far it is consistent with the idea of applying to parliament, either duly or unduly influencing parliament, how far it does, or not, fall in within the principle, the rule of conduct laid down in the London Corresponding Society's address of the 6th of August, 1792; that they are not to apply to parliament, but to depend upon themselves? How far it falls in with that National Convention, and I beg your attention to it, which, according to the 20th of January, was to redress itself by its own laws, and not by the laws of its enemies, plunderers, and oppressors; for so it represented the legislature of this country to be. Hear the words which he recommended to the attention of the people of England—" A convention is a constituent body; that is a body that is to make a constitution for the people; a legislature makes laws under an established constitution; and, in conformity to it, it is despotism when, in the ordinary and permanent establishment of a state, there is no separation of powers; but it is of the very essence of a constituent body to concentre, for the time, all authority; it is the very nature of a National Convention to be the temporary image of the nation, to unite in itself all the power of the state, to employ them against the enemies of liberty, and to distribute them in a new, social compact, called a constitution."

Gentlemen, this is not an actual publication of this paper, but a species of publication of this paper. And is not this a publication of the same nature as those books, which hold parliament incompetent to make a constitution? Is it not the substance of those acts of the Constitutional Society, which had recommended a convention for the purpose of forming that, which these works have, over and over again, asserted does not exist in this country, a constitution? Is it not giving to the people of England the character of that convention, which is alike in its principles and its constitution, to that, which had been recommended in every book that they had published? You will find it is consistent with every act they had done, both with respect to Scotland, and also with respect to England, up to the month of April, 1794.

Gentlemen, there is evidence before you which, when it comes to be stated, I would likewise desire your most serious attention to, I mean the letters which passed between January 1793, and the 16th of April, 1793, and subsequent periods, prior to the formation of the Scotch Convention; they deserve, gentlemen, all the attention which can be due from a jury of the country to any subject that deserves the attention of the country, and of a jury, in whose verdicts, after all that we have to say about the constitution of the country, in and by whose verdicts that constitution lives and breathes, and has its being. They never therefore can be spoken of too respectfully, and feeling thus of the high character of the functions that you are by-and-by to discharge, I am sure that, in a case of great importance to my country, you will allow me to go through it if I can, calling for your active attention to it.

Gentlemen, petitions were sent to parliament, to that parliament, to which, upon the 6th of August, 1792, the Corresponding Society, modified as before stated by the prisoner, had said it was in vain to resort—not only in vain to resort, but not consistent with their principles to resort—that parliament, which was incompetent to do the work which they were to do; to form that, which, they asserted, did not exist in Great Britain; a constitution—What do they do? You will find a great variety of letters, and I beg your particular attention to those letters, from various societies, desiring to know what was to be done about petitions. Attend to the substance and effect of them all, and I will not

waste your time by going into the particulars; they contain such foul aspersions upon aristocracy, upon the higher orders of life, that, upon my word, one can hardly read them without shuddering; but they say distinctly, in more than one or two of them, "What is it that we are to do? Shall we petition the king? No! That is fruitless—Shall we go to parliament? No! we are an oppressed people, and won't go to parliament: Shall we have a convention? That is the thing to which we look, when the people shall have become" mark the words "virtuous and courageous enough to hold it."

Gentlemen, they have before, in various letters, stated, and I beg your attention to that too, that it was to be done by their own strength—that it was to be done by imitating the valour of their forefathers—that it was to be done by moving on in one united compact system of affiliated clubs, till England, for that is the expression from Sheffield, till England shall become free, as France has become free; till these societies shall spread from city to city, from town to town, from village to village, from hamlet to hamlet, till they cover the whole face of this sea-girt isle. Then it is that the "Nero's of the day," as one of the letters says, shall fly before their oppressed subjects—then it is, say they, that we will tell you, for such is the import of another letter, (and the only letter, that the counsel for the prisoner ventured to observe upon, in the whole course of the year 1792), then it is that it will be time enough for us to tell you (while we give you advice, in the mean time, not to talk about ripping up monarchy by the roots, not to mention, in the mean time, monarchy or democracy, but to speak of nothing but representation of the people in parliament, words, give me leave to say, that occur in the statutes of this land, in the time of the republic; words which are equally satisfied by a House of Commons, in parliament assembled, for such is the legal phrase given to the House of Commons in parliament, in the time of Cromwell, and equally satisfied by a House of Commons co-existing with a House of Lords, and a king, which could form no part of a system agreeable to the Rights of Man) then it is, say they, that we will speak out, as the Sheffield paper informs you, with a voice that will be like the thunderings from Mount Sinai, then we shall tell the five hundred and fifty-eight gentlemen, in St. Stephen's chapel, to walk about their business. This is their language, and yet, forsooth, this is not a conspiracy that was to act by force! You will see presently whether it was a conspiracy to act by force! Give me leave to tell you, that that mind is not capable of stating ideas with precision to those to whom it addresses itself, that can find a distinction between a conspiracy avowedly formed for acting by force, and a conspiracy to bring together a body of people determined to carry their object, and which must at last act with France, or desert its object. The convention, he knew, must act with force, and could not accomplish its project, unless it acted with force. The legislature of the country could not, he knew, permit it to execute its purpose; and, if it was determined to accomplish its object, it must act with force. Those, who would have gone farther in the execution of his projects, than he chose to do, must act with force: and he is answerable for enabling them so to do. Their project of petitioning parliament was a project merely to insult it, and to insult it for the purpose of making it the instrument, making even parliament the organ and the instrument of circulating libels through the country.

It is avowed, in the letter of the 16th April, —for, even in this very letter they say, "as to applying to the king, that is futile;" "applying to parliament, that is acting like an oppressed and subdued people."—It is avowed in this letter, that they must look (and here the idea is correctly stated, as early as the 16th of April, 1793) that they must look to a convention, by which, says the Constitutional Society, we suppose you mean a convention of persons, who are to do what parliament will not do; a convention of persons from these societies to do that work, and to give that redress, which neither the king, nor the parliament of Great Britain, would, nor, according to them, were competent to do, or to give. Is that letter, that was produced by that gentleman, the hasty fruit of an ill considered measure? No, you will find that they write to all these societies in the country upon the subject: the letter has been read, and will be read again. They beat up for subscriptions to this project of a convention, which they had then in contemplation, upon the 6th of August, 1792, and the idea of which they had been endeavouring to propagate, by the address to the National Convention, in October. They beat up for subscriptions to this project of petitioning parliament, for no other purpose, but to induce the subjects of this country to think upon the subject of a convention, by which the society are to right themselves. Things were going on at an immense rate; for it is surprising, when one comes to look at these letters (and if the gentleman is entitled to any benefit from the circumstance, that there are a great many people liable to prosecutions, he is entitled to much from it), to what an immense extent well-meaning men were drawn into (I do not know what to call it) the practice; for I abominate using a harsh word, upon any occasion; drawn into the practice of having sham petitions stated, and sham motions made, merely to be overruled; poor ignorant men, that are dear to the law and constitution of England, but ought to be treated better, because they are dear to the law and constitution of England. To see so many persons, in all parts of the kingdom, embarked by false reasoning and artifice in this project, I protest to those who

have looked into the state of this business, and who have been bound by the discharge of such a duty, as, I pray God, may never fall to my lot again to look into it, it is too painful to see to what an extent this misleading system has gone.

Gentlemen, you find a great number of societies at Norwich; you find an extensive society at Sheffield; you have seen that society at Sheffield represented as containing two thousand members; Broomhead said there were not above six hundred: for what purpose were they represented as two thousand! Why, to make the Norwich people believe there were considerable numbers at Sheffield. They state, you observe, from one place to another, that great numbers are joining them in each: they are taught to believe, that great numbers of members existed in places where there were none, and that the numbers were increased in other places when they had received no increase: and the minds of their adherents are prepared by the idea of their numbers for a convention. The project of the Scotch Convention is then thought of. I beg here your attention for a moment, to the society called the Friends of the People, because I wish to put you completely in possession of what I am contending for; and do not let me be understood to say, I am not saying that societies of men may not in this country associate, in a great variety of ways, to bring about any reform in the government of the country, which is consistent with the spirit of the constitution and the law, seeking it finally by application to parliament. I cannot undertake to define the degree of influence they may exert over the mind of the parliament. I find nothing in that society of the Friends of the People which has gone too far, unless it should happen to be that letter, that seems to have been read either at the Globe-tavern or at Chalk-farm. Stating a very humble opinion upon that, it seems to me to have gone rather too far, but it is an important fact in this business, that these gentlemen informed the society for Constitutional Information, so early as May, 1792; that they could not but look upon that society as going to very dangerous lengths; that they themselves meant nothing like anarchy and confusion, and therefore would have no correspondence with them. I mention the fact, as I understand it, because it appears to me not to be out of place in this business, to mention another thing, namely, to show how these societies are made the tools of each other. In this Society of the Friends of the People, major Cartwright mentioned, that one thing had been carried by a casting vote; but can I illustrate any thing better, by way of showing the dangerous tendency of these things, than to say, that if it had been carried by a casting vote the other way, the Friends of the People would have been holding the language of the Constitutional Society in effect, though they had been rejecting all correspondence with them. I would not mention this, but it leads me to a circumstance I have omitted in its proper place, as it respects the evidence, as it affects the gentleman at the bar. It appears, gentlemen, that his society corresponded with a society at Sheffield; it appears that the Society of the Friends of the People corresponded with the society at Sheffield: upon the 26th of May, the society at Sheffield write a letter, which has been produced in evidence, and which has likewise the correction of the prisoner contained in it, which states, that they find the Friends of the People are not going upon the Rights of Man; and in effect states, they will have nothing to do with them, but will be governed in their connexion with the Friends of the People, to the extent that the Society for Constitutional Information will permit. Why, gentlemen, does not this most clearly show, that the Society for Constitutional Information at Sheffield was in truth an engine in the hands of the Society for Constitutional Information in London, and that that society was an engine, to a considerable extent, in the hands of the gentleman at the bar, has, I think, been proved.

There is another observation this leads me to, before I mention again the Scotch Convention; and that is this—It was suggested in the outset, by the cross-examination, that the gentleman at the bar was really but a mere visitor to the Constitutional Society. Now, if the evidence states a flat contradiction to that, it will be for you to judge with what purpose that was stated; and it is an extremely remarkable thing, that there are very, very few instances, indeed, to be found, though extremely numerous were the times of meeting during the three years we have been talking of, in which that gentleman was absent from this society; and I am sure, after what has passed here, I shall not be thought to make an uncandid remark, when I say, that the accuracy with which this gentleman remembers transactions which had passed in clubs and societies of that kind, is not the least remarkable circumstance that has happened in the course of this cause. You will allow me also to say, that you have been told that the funds of the Constitutional Society were small; that their number was not many; and that they did not mean to act with force. Why, gentlemen of the jury, till those circumstances had taken place in France upon which the gentleman at the bar has been acting in this country, this sort of thing was never thought of, which has been the project meant to be carried into execution ever since March, 1792. It was not by the numbers of the Constitutional Society, of whom hardly one has been called to tell you what they meant; it was not by the numbers of any other unassociated society, but it was by the strength of the Corresponding Society, consisting of some thousands—by the strength of all these societies, in the different parts of the kingdom, that were to be affiliated and

associated with this society, that the objects of this society were to be carried into execution, without much of personal hazard to those who were the real authors of the plan that was in agitation, and was well nigh ripening. When I say "well nigh ripening," I use their own language; for you will find that during the greater part of the year 1793 they say, that when they can act with the valour of their forefathers, when they can act upon their strength, and when the time shall come, then they say they will act. You will find that in 1793 and 1794 they say not only that the time is now come, but they likewise say that the time, that is now come, is the time in which they must act, or must lose the opportunity for ever; endeavouring again to mislead ignorant men, by holding a language about Hessians and barbarians, which could mean nothing but that they should act and resist with force.

Gentlemen, it is a singular circumstance, which I have not taken notice of, and which connects itself with the Scotch Convention, that these affiliated societies in the country should, all at once, be desirous of having a connexion with the society in London—the London Corresponding Society; that this love of parliamentary reform, as it is called, should grow so ripe in the country, and that it should do so exactly at the same period all over the country; that corresponding ideas should be excited in every part of the country; that, at the same instant, in March, 1793, without any management, these societies should connect themselves with the Constitutional Society, or London Corresponding Society.

Gentlemen, it has been contended on the other side, that this gentleman was not answerable for the proceedings of the Scotch Convention. That he lived at Wimbledon, and not in Edinburgh, is an undoubted fact; but I say that it is distinctly clear upon this evidence, and I beg your attention when my lord sums it up, that the Constitutional Society in London with the Corresponding Society (I mean always here those individuals of each who understood their project; which of them understood it I do not know, but it is my duty to submit to you, as I do most confidently, that the gentleman at the bar did understand it)—it is distinctly clear that the Scotch Convention, whatever was the nature of its actions, never would have met a second time to commit those actions, but through the invitation of those societies in London. Is there no connexion with Skirving? Is there no connexion with Gerrald?—Gerrald was proposed to the Constitutional Society by Mr. Tooke. There is no connexion, it is said, between Mr. Tooke and Sinclair: it is impossible to deny the Constitutional Society was connected with Sinclair. In short, it is said there is no connexion with this thing in Scotland. Now, there is a letter of Skirving's, which is in evidence, which was sent up to the Constitutional Society, being a circular letter that he sent to call back the delegates. When Margarot, Gerrald, and Sinclair got back to Scotland, there also was another letter to the London Corresponding Society, in which they state the necessity of having a convention, in order to bring about what they call a union of the two nations; a remarkable effect, to be sure, of a convention that was merely to petition parliament. Sinclair's correspondence comes up to the Constitutional Society, his letters are read in the society, publications are ordered in the newspapers respecting his letters, and measures are finally taken, which I must detail presently to you, upon this subject. Now, here I ask again, if the Society for Constitutional Information was surprised into this measure of sending Sinclair to the Scotch Convention? if Margarot and Gerrald, who were deputies from the London Corresponding Society, had really no connexion at all with the Constitutional Society, and went without the privity of Mr. Tooke, why has not Hardy been asked a question to prove this? You are told of the want of funds; gentlemen, you will give me leave to say, that it is a very singular circumstance to have happened in Great Britain, that, by the mere sending down to Edinburgh two such persons as Margarot and Gerrald from one society, and Sinclair from another, a convention, consisting of no less than 180 delegates, should have been held in Great Britain, which not only do the acts that I am going to state to you, but which, it has been stated and proved to you, distinctly avow, that if they could get a convention of England and Scotland, they should represent above a majority of the male adults of the kingdom. Great solicitation was made from the London Constitutional Society to Leeds, Sheffield, Norwich, and other places, to send delegates to the Scotch Convention. If, therefore, these societies sent delegates to the Scotch Convention, the sending these delegates is also another act of the London Constitutional Society.

But these persons, it seems, are represented to you as meaning nothing more than to act as the societies in the years 1780, 1782, and 1785 acted, namely, to petition parliament! Gentlemen, I beg your attention to their proceedings: I shall be able to state them in a very narrow compass; but, as they are very important, I must beg leave to inform you what they really are. In this convention, after it had received an encouraging visit of the delegates from London, Skirving, speaking of its purpose, as being to establish an indissoluble fraternity between the two nations, and to adopt that measure (you will mark his words) "which, at this awful period, may have a tendency to save the country," it appears that Margarot represents—"That the societies in London were very numerous, though sometimes fluctuating; in some parts of England whole towns are reformers; in Sheffield and its environs there are 50,000."

So he represents that—"In Norwich there are thirty societies in one: if we could get a Convention of England and Scotland called, we might represent six or seven hundred thousand males, which is a majority of all the adults in the kingdom." They then proceeded upon a plan of general union and co-operation between the two nations;—upon a plan of organization. They met first at a place called Convention Hall, and then they moved (and to this I will beg your particular attention) that the Convention should from thenceforth be styled "A Convention of the People." Now, I venture to assert that you may ransack all the proceedings that have been alluded to in this cause, from the beginning to the end, and that no body of men ever ventured to call themselves, what these people called themselves, "A Convention of the People," which is a National Convention of that species which was to overrule the legislature in every country in which it was held. Then they divide themselves into sections—they divide the country into departments—they appoint provincial conventions—they receive patriotic donations; and then there is (not entered into their minutes) that resolution, which has been somewhat commented upon, and which I state to you to be a very strange thing, but which is of infinite importance in this cause, because I take it to be a clear proof that the convention, which was afterwards to meet in England, was to act with force, in case they were resisted in the execution of their projects. Gentlemen, I shall have to call your attention, by-and-by, to the fifth resolution of the proceedings at Chalk-farm, for which I contend, before you, that the gentleman at the bar is responsible; and when you connect all that passed in the Scotch Convention—what passed upon the 17th of January—what passed upon the 20th of January—what passed upon the 24th of January; when you connect the circular letter of Hardy—the meetings in the open air at different places, that I have to mention to you; and when you connect the proceedings upon the 14th of April at Chalk-farm, I say that it is not, according to the nature of evidence, that the effect of it should be less than this—that they meant a convention to supersede the legislature of the country, and to carry that project by force if it were necessary.

Gentlemen, this resolution, which has been produced to you, is in the hand-writing of Mr. Sinclair, the delegate from the Constitutional Society; and I observe that the gentleman who addressed you last, for the gentleman at the bar, was obliged to say, that this was really nothing more than an intention to resist some one act of the legislature, such as was specified in these resolutions. But, before I comment upon it, I desire distinctly to say this, that if the delegates of the Constitutional, or the Corresponding Society, have gone one whit farther in their actions in that convention than was agreeable to their instructions, their actions are not actions for which the gentleman at the bar is responsible, unless you can be satisfied that he has subsequently adopted them, approved them, and has gone on in England to do acts of the same nature.

In the convention they stand up and join hands, and pledge themselves to stand or fall hand-in-hand; and this is resembled, or attempted to be resembled, to the case of persons meeting at Willis's, or some other room, upon an election, where they are meaning to support the interest of a candidate after he shall become a representative in parliament according to the constitution of England: a learned gentleman, who sits by me, is supposed to have proposed (and I know no man more likely to have done such a thing at a particular period of the day)—to have proposed, from the generosity of his heart, to join hands, and pledge himself and others to support their candidate. Now, do attend for a moment to the difference of the objects; and give me leave to ask you a question, for I will assert nothing about it.—What must be the persuasion of the mind, with respect to the nature of this act, of that gentleman, who finds it necessary to resemble such an act as this, because it was attended with such a circumstance as that, to such an act as that which I have been speaking of, as having taken place at Willis's room? They say—"Resolved, That the following declaration and resolutions be inserted at the end of our minutes." You will permit me to tell you that they were not inserted in the minutes—that there was a reason for it—they were too dangerous to be inserted in the minutes of this convention; but I will show you that they were communicated hither—"That this convention considering the calamitous consequences of any act of the legislature which may tend to deprive the whole, or any part of the people of their undoubted right to meet, either by themselves or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society——"

Gentlemen, when I come to detail to you the resolutions at Chalk-farm, you will see what that expression means. It is to say that the first principles of the safety of society require that force shall be used against the legislature—"We do hereby declare before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country, and shall continue to assemble, and consider of the best means by which we can accomplish a real representation of the people, and annual election, until compelled to desist by superior force." It is stated when the words "superior force" have been commented upon, that

Skirving did not find himself in a situation much to resist superior force, but you will see what excellent care was taken to provide it by the subsequent proceedings in January, February, March, and in April. Mr. Skirving, when he was turned out of the room by the magistrate in Edinburgh, did not resist merely because there was not present physical force enough to resist effectually—but the meaning is clear. They mean to say to the legislature of England, though you and the king of England have passed an act of parliament, yet we, being a convention, have a right to judge of you; you, being but a constituted legislature, we will not pay any regard whatever to that act, which we conceive to be hostile to the constitution of England, although the constitutional legislative authority of England should have enacted it, we have authority to decide whether it is constitutional, or not. "And we do resolve, that the first notice given for the introduction of a Convention Bill, or any bill of a similar tendency to that passed in Ireland in the last session of their parliament, or any bill for the suspension of the Habeas Corpus Act, or the act for Preventing Wrongous Imprisonment, and against Undue Delays in Trials in North Britain——" Now what does this mean? I ask you, as men of understanding, upon your oaths, can it possibly mean any thing short of this—that, if the legislature of the country thought it necessary, because those persons, by their own force, were about to overturn the constitution of the country, to introduce a Convention Bill, or to exert those other acts of legitimate power to be done upon the ground that, when the public safety requires it, the liberty of the nation may be parted with for a while, that it may be preserved for ever, then those persons mean to say we will oppose force by force, and not suffer the acts of the legislature of the country to have operation, till we are opposed by superior force. If the force of the government was inferior, they must be the government of the country—if the force of the government of the country was superior, it could be only by the exercise of that superior force, that the legitimate government of the country could be sustained. I am now going to read a passage, of which I have asked an explanation, but could not receive it. I cannot forbear to think that this passage means neither more nor less than what I shall state to you. I think the human understanding can make no less of it—"Or in case of an invasion, or the admission of any foreign troops whatever into Great Britain or Ireland——" Now I ask why was the convention of the people, by delegates from the societies in Great Britain, to meet in case of an invasion? Why were they then to meet? Were they to rally round the throne in the ordinary execution of their duty, as loyal subjects? If they were to do that, they were to be under the direction and control of the legitimate military power of the country? Why were they to meet in case of an invasion, if it was not to assist those who invaded? But that is not all—"Or the admission of any foreign troops whatsoever into Great Britain or Ireland——" Why, gentlemen, what had the admission of foreign troops into Great Britain or Ireland to do with the objects of a body, to which it is now professed, and where it must be professed at the bar on behalf of the gentleman, that force must be unnecessary? I should be glad to know what the admission of any foreign troops into Great Britain or Ireland had to do with a meeting of a convention of the people for petitioning parliament, and obtaining their purpose by influence, either due or undue, take it as you will? What the resistance of those forces by the meeting of a convention could intend, unless it was this, that if there was an idea of admitting any foreign troops into Great Britain or Ireland, these foreign troops being under the control of the military power of this country, would be a force that they thought was to act against the force which they meant to act with? They add—"All or any one of these calamitous circumstances shall be a signal to the several delegates to repair to such place as the secret committee of this convention shall appoint, and the first seven members shall have power to declare the sittings permanent, and twenty-one shall constitute a convention, and proceed to business."

Gentlemen, there was a project in that convention to petition parliament. They pass the order of the day upon that—Did they then mean to petition parliament? They call themselves a House—the Convention; they call themselves the British Convention of the People; they divide themselves into sections,—into departments; they have committees of ways and means, of finances, of union, organization of every species, and they come at last to take the very title of the National Convention of France, with the difference only that the one is British, and the other is French—*The British Convention*—The first year of the British Convention (which is an epoch) one and indivisible. Gentlemen, I am told that the funds of this society were small. I am surprised to hear that; but it is the only remark that could be made upon the circumstances of this case, and I must not be told that, because the funds of men are small, they can do no mischief. Margarot says in one of his letters, which is before you—"Money, money, money is all that is wanted;" and Martin says, in one of his letters before you—"That people who have money begin now to come in, and sit down with the leather apron gentry." But it is not merely money that is to do the business—the plan of affiliation in another country was not done by men who did it with money—it was done by the physical strength of numbers; the physical strength, which Barlow refers to in his letter, and it is rather idle, in such a case as

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this, to be stating the quantity of money which the delegates there had, if they were uniting physical and natural strength, and affecting to represent, that if they could get a convention of England and Scotland, they should represent not less than seven hundred thousand adult males of the kingdom.

Now, gentlemen of the jury, when this had passed, and when those persons were dispersed by the magistracy of the country, and when certain sentences were passed upon them, with respect to which I am bound to say one word, not because I am going to give you my opinion about the law of these cases, or either to contradict, or not, the prophecy of my learned friend about them, though I should have been very happy if, in another place, I had received his assistance upon the subject, but because it has been argued by the last gentleman who spoke, that this could not be treason in the Scotch Convention (not upon principles, I think he did not venture thus much, but) because they were prosecuted only as a misdemeanor. Now I cannot agree to that, for one reason, because I say, that when no more of this matter was discovered, than the proceedings of the Scotch Convention, and when one could not make out by all the additional evidence which subsequent discovery has brought forth with respect to the project, which produced that convention, and which subsequent discovery has brought forth with respect to the facts, that passed after that convention, it would indeed have been a bold thing in the crown officers in Scotland, who acted upon their own advice upon this subject, to have said that they would impute this, as being unquestionably what it was, an overt-act of high treason, when my friends contend with so much strength, that not only not this, but that all those additional circumstances together, which are now proved, and which contain an infinite number of such overt-acts, as they appear to me, do not form a ground for the imputation. I say, if the crown lawyers of Scotland had ventured upon a prosecution for high treason, the consequence would be that they might be thought to have had a case short in proving a conspiracy, where it consisted only of the transactions of that convention; I ought not, however, to scruple saying here, what I said in parliament, and what the world knows already that I did say, that if the interests of the public had been committed to me upon that case as I knew it, when I so expressed myself, I should have thought it my duty to ask a jury whether it was not a case of high treason. Consider the real objects of that convention:—now there is no law in England by which you can say to any man, who chooses to ask for your coat, this coat is my own, if I cannot now say that a conspiracy to imprison the king, to remove by force evil counsellors from him, though the conspirators do not mean to affect his life, and though the parties may profess great tenderness for his person, is an overt-act of high-treason. It would be a singular thing if it was not. If it is, it would be more singular if a conspiracy to make him remove counsellors, formed upon the principle upon which this was formed, viz. to compel him by force to part with the great counsel of the nation, is not an overt-act of high-treason. But upon that you will receive my lord's directions by-and-by.

I now come to the proceedings upon the 17th of January, 1794; and with respect to these proceedings, you will permit me, for a moment, to call your attention to them, because they are of great consequence in this business. I say it is impossible for a person who was privy to those proceedings, and I say it is impossible for the gentleman at the bar to contend that he was not a party to these proceedings—to deny, that he meant to carry this project by force. I will not go through the particulars of the evidence here, which relate to the adoption of Sinclair's proceedings in the Scotch convention, but must again refer you to the resolutions in the society's book,—I must refer you to the resolutions in the society's book, repeated again, when his letter is taken into consideration—I must refer you to the letters which Mr. Tooke himself wrote, where he speaks of sending Mr. Pitt to Botany Bay, which cannot be represented, with any degree of truth, as merely a letter of solicitation of subscription for Sinclair, for it is a direct adoption of his whole conduct; it states Sinclair not only to have acted well, but moderately, and having said this, I call now your attention to the resolutions of the 17th of January, 1794. Now with respect to those resolutions, Gerrald, who had come from the Scotch Convention, was present when they were formed; he took the chair immediately after Mr. Tooke had left it, and proposed a resolution as offensive as any of them; and there is no single person called to prove that Mr. Tooke, though he did not remain in the chair, did not remain in the room at the time of the passing of this resolution; but that is not necessary, for the Corresponding Society's address of the 20th of January, I shall show adopted fully in the proceedings of the 24th, by the Constitutional Society, and fully adopted in the proceedings of the 28th of March, 1794, and likewise the subsequent proceedings of the 14th of April, 1794; but the resolution is a strong one, and I must mention it to you—while Mr. Tooke was in the chair they state this—"We call to mind with the deepest satisfaction, the merited fate of the infamous Jefferies, once lord chief justice of England, who, at the era of the glorious Revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people;" and then it is "Resolved that those who imitate his example, deserve his fate." I should hope that men of talents will in future speak plainer.

"Resolved, that the Tweed, though it may

divide countries, ought not, and does not make a separation between those principles of common severity, in which Englishmen and Scotchmen are equally interested; that injustice in Scotland is injustice in England, and that the safety of Englishmen is endangered whenever their brethren in Scotland, for a conduct which entitles them to the approbation of all wise, and the support of all brave men, are sentenced to Botany Bay, a punishment hitherto inflicted only on felons."

"Resolved, that we see with regret"—and you will observe that the counsel for the prisoner felt themselves bound to get rid of this—"but we see, without fear, that the period is fast approaching when the liberties of Britons must depend not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised."

Now, gentlemen, I ask any man what that means? The courts of justice, acting under a responsibility which those courts are subject to in that country, had passed sentences, which came under the review of parliament, and, as I may say, under the exercise of a sharper writ of error, than the proceedings of any judges in my recollection ever came. We are told upon this, that the time is fast approaching when the people of this country are to resist tyranny by the same means, by which it is exercised. What is the meaning of that? I say that, when legitimate government is called tyranny, and when men say that you are to resist that tyranny by the same means by which it is exercised, it amounts to neither more nor less than saying that you are to resist government by the same means by which it is exercised—that is by force. They so reason about it in the letter of the 11th of January, and Hardy might have been called to prove that Mr. Tooke knew nothing of that matter; it is there expressly stated that—"Now is the time for us to do something worthy of men; the brave defenders of liberty, south of the English channel, are performing wonders, driving their enemies before them like chaff before the whirlwind." They proceed to this address of the 20th of January, 1794. Now, with respect to that address, I defy the wit of man to give it the construction which they have felt themselves bound to attempt to give it on the other side. After a most inflamed introduction, they farther state that they approve of the wisdom and conduct of the British Convention in Edinburgh, and add: "The Irish parliament and the Scotch judges, actuated by the same English influence, have brought us directly to the point; there is no farther step beyond that, which they have taken. We are at issue. We must now choose, at once, either liberty or slavery for ourselves, and our posterity. Will you wait till barracks are erected in every village, and till subsidized Hessians and Hanoverians are upon us?" What is the meaning of this, which is the language of men, who say, that if the kingdom of Great Britain should have introduced into it any foreign troops, even by act of parliament, they would immediately meet in a convention, and resist until they were overcome by superior force? "You may ask perhaps (they proceed) by what means shall we seek redress? We answer, that men in a state of civilized society are bound to seek redress of the grievances from the laws, as long as any redress can be obtained by the laws, but our common master, whom we serve (whose law is a law of liberty, and whose service is perfect freedom), has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress——" Now remember whom they have been speaking of through the transactions of two years, as their plunderers, their enemies, and oppressors; and remember those addresses to France, and what I forgot to observe upon, the private letters of Mr. Tooke. You will, by-and-by, have them stated with more effect than I can state them—"We must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors." Now, what laws are there in this kingdom to which that can be applied, but the laws of the King, Lords, and Commons, in parliament assembled? If I mistake the interpretation of this, I hope and beseech that my lord will give a benign interpretation of it when he comes to state this evidence to you; but I state it as that interpretation which it appears to me is the necessary exposition and interpretation of it:—"There is no redress for a nation circumstanced as we are but in a fair, free, and full representation of the people? Now, give me leave to ask, how is all that you have heard about monarchy to be connected with this fair, free, and full representation of the people? But if it was meant that this fair, free, and full representation of the people was to be the effect of their wills, and not of the will of the King, Lords, and Commons, in parliament assembled, whom they thus dare to call their plunderers, enemies, and oppressors, the case is not one bit the worse whether it was meant directly to depose the monarch of the country, or to effect the measures which lead to his deposition, and, in consequence, to that which is not far distant, —his death. Then (not approving, to be sure, the proceedings of the convention in Scotland!) they state as follows, and they drop—and this is very material—they drop the case of invasion; they durst not state that case in their resolutions in the Scotch Convention; they dared not to publish it here in England; but they state—"That, during the ensuing session of parliament, the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament, and of the administration of the go-

vernment of this country; and that, upon the first introduction of any bill or motion, inimical to the liberties of the people, such as for landing foreign troops in Great Britain or Ireland;"—I ask again what had they to do with that, unless they meant to prevent by force the execution of a law for landing foreign troops?—" for suspending the Habeas Corpus act; for proclaiming martial law; or for preventing the people from meeting in societies for constitutional information, or any other innovation of a similar nature; that, on any of these emergencies,"—now, mind the expression! I have no occasion to argue in this court of law, what the powers of the people in this country are—" the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith"—to do what?—" forthwith to call a general convention"—of whom?—" of the societies?—no!—" forthwith to call a general convention of the people——" Now, what is a general convention of the people, but persons taking upon themselves to represent the people—in the character of the people taking upon themselves legislative and executive authority; and, if there could be any doubt about this, which I say there cannot, the doubt is removed at once when you recollect the occasion and emergency upon which they were to be called together—for the very purpose of resisting the first motion that shall be taken towards an act of the legislature of the country, which is the genuine representation or convention of the people—the people in parliament assembled—" to be held at such place, and in such a manner, as shall be specified in the summons, for the purpose of taking such measures into their consideration." Gentlemen, this is not all; because you will find in a letter which was written, I think, by Margarot to Hardy, who has not been called to prove that the prisoner knew nothing about it, that Margarot informs him about those Hessians getting into barracks; and desiring to know whether they would wait for this convention of the people, or yield their necks like lambs to the slaughter, or act for themselves—that this is that time which is described in the letter to Norwich as now come, and which, if lost, will never be regained.

Then, did the gentleman at the bar approve of this? With respect to that, I would call your attention to the transactions of the 24th of January, 1794. Now, all that has been stated upon that, is, that these transactions say only—" That it be resolved, that the most excellent address of the London Corresponding Society be entered on the books of this society." Nobody has been called to prove to you that any other address was meant.—The date is the 24th of January. You will observe, in addition to this, that upon the 24th of January, the London Corresponding Society, in their address of the 20th, having approved of every thing which the Scotch Convention had done, the Constitutional Society, Mr. Tooke being present, and there is a rough draught of the resolution in his own hand-writing, came to a resolution, that that Corresponding Society had deserved well of their country. Then, gentlemen, here is an end of all farther talk about Sinclair; for, if the Constitutional Society, upon the 24th of January, approved of what the Corresponding Society did upon the 20th, and the Corresponding Society on the 20th approved the whole conduct of the British Convention, Gerrald, returning to this Constitutional Society—Sinclair, a member of it—Margarot, a member of it—their letters and communications found in the possession of the secretary, how is it possible for a moment to argue that Mr. Tooke, present, and drawing this resolution, was not a party to the transactions of the British Convention in Scotland, even if the persons who did act in this transaction had gone beyond their instructions? But this is not all; for you will find that afterwards Thelwall states, in a letter to Adams, that by the direction of Mr. Tooke, he was to have six guineas for printing the address of the London Corresponding Society: he pays for them.—And has Mr. Tooke ventured to ask Adams the question, what were those two thousand five hundred copies, in respect of which these six guineas were paid by the society, of which you were secretary?

Gentlemen of the jury, we come now to a transaction, from which, whether the convention to be called in consequence of it was to be a convention of the people or not, I say it is demonstrable that there was to be a convention to exercise legislative and to assume executive power, and to be supported by force, if necessary. This project begun upon the 27th of March, 1794. But if I do not make that out, there is enough in this case to sustain what I have been urging. Mr. Hardy might be called with respect to this transaction of March, 1794; and it is hardly possible, when one attends to the style and context of the letter then sent, not to think that this would have been an additional motive to have called him, to have assisted the case of the gentleman, to the extent of saying, that he was not a party in this communication to the Constitutional Society: that the communication was made, in the name of Hardy, has been proved. Now my friends read the letter to which I am alluding, but forget to read the resolution. They dont like the resolution, because that shows the true exposition of the letter of the London Corresponding Society, when they say they conceive " that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom." Gentlemen, give me leave to call back to your attention, that in August, 1792, they thought the moment had not arrived—that on the 16th of April, 1793, they thought the moment

had not arrived; but they now say that the moment is arrived, when a full and explicit declaration is necessary.—"The Society for Constitutional Information is therefore required to determine, whether or no they will be ready, when called upon, to act in conjunction with this and other societies to obtain a fair representation of the people."

Now, were these people, in the idea of Mr. Tooke, or of any man living who has common sense, to obtain a fair representation through parliament, who had, in the course of their proceedings, determined that they would have a convention of the people, to supersede and resist parliament, unless they themselves were superseded and resisted by a superior force? But, gentlemen, how was this to be done? Why, they talk of the necessity of a speedy convention. Look at this resolution when my lord comes to sum it up to you—"That it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have been wrested from us"—Now, how were they to recall those wise and wholesome laws that had been wrested from us? There were only two ways of doing it—doing it by application to parliament, or doing it by the force of such a National Convention as has been described in prior proceedings! Which do they mean? Do they mean to apply to parliament?—application to which they had before stated to be futile; to that parliament which they had said they never would approach, and which they had stated was incompetent, upon their principles, to give them any remedy? No! What do they say?—"There ought to be immediately a convention of the people"—Now, how is that convention of the people to be brought about?—"by delegates, deputed for that purpose, from the different societies of the Friends of Freedom, assembled in the various parts of this nation." This new convention of delegates is a convention of the people, by delegates, from different societies, who expressly had disavowed having any thing to do with parliament upon any subject. It was found necessary, with respect to the proceedings of the 4th and 11th of April, 1794, to insist that the gentleman was not implicated in them. It has been proved distinctly to you, and I care not how little or how much Mr. Adams knew upon this subject, for he is not prosecuted, because I think he knew very little upon this subject—but he distinctly proved, that gentleman named Sharpe to be one of the committee of correspondence and co-operation. Beyond all that, and what puts it entirely out of the question, is this, that the very circumstance which has been stated, as a circumstance to prove that this thing, a convention of the people, was not to be a convention of the people, proves very distinctly that these papers are drawn with a good deal of art; but I defy all human reasoning to prove, upon the paper of the 11th of April, 1794, that Mr. Tooke did not give his full consent to this project of a convention of the people. I allude now to that paper which has many words scored round, and which scoring round is to have the effect of erasing. I say this Corresponding Society and Constitutional Society, which had most distinctly understood each other in all their proceedings, from the 6th of August, 1792, down to this period, have distinctly disavowed any application to parliament; and, by their delegates in the Scotch Convention, acted as delegates of the people; meaning to have legislative and executive power if parliament interposed, and unless resisted by superior force. When the Corresponding Society talks of having a convention of the people, in the third resolution, by delegates of the different societies of the Friends of Freedom, that is the meeting of the Friends of Liberty, which, for the sake of variation in the phrase, and without any variation in the substance of the thing, taken according to all legitimate principles of construction, is elsewhere spoken of, and to this Mr. Tooke must be taken to have given his assent upon the 11th of April.

Then it is said, that the Scotch Convention did little or nothing. It was, gentlemen, not the plan that its members should by themselves do much: but you have the circular letter of Hardy, which is a call upon the people of Great Britain to meet in convention, to supersede the legislature: you have had it proved that Yorke, whether a member of the Constitutional Society or not, attended it, and was honoured with their delegation to the Scotch Convention; and though they did not choose to give him as much money as he wanted upon that occasion, yet there is not a trace upon the books of the Constitutional Society, from the beginning to the end, of any disapprobation of his appointment. You have heard of the meeting in the open air at Sheffield, where a petition to parliament was proposed by their leader (for there was a leader at Sheffield as well as other places), for the mere purpose of being negatived. You have heard of the letter sent to Bristol. You have heard of Hardy's letter to Strathaven. You have heard of the delegates being appointed to Scotland, and Hardy's letters to Newcastle-upon-Tyne. You have evidence of meetings in the open air—of persons meeting at Leeds, Hallifax, and various other places; and it is impossible, upon the evidence which you have upon the subject, to doubt for a moment that there would have been a convention (what the nature or quality would have been is for you to judge) if the proceedings had not taken place in consequence of which I have the honour of addressing you here this day.

Gentlemen, you have heard more than all this, for you have heard of the proceedings at Chalk-farm; and I must take leave to say

that these proceedings are fairly imputable to the gentleman at the bar. You will find that they were informed that there was to be a general meeting on Monday, the 14th of April, which was the day when these proceedings took place. It would have been an easy thing for the gentleman to have proved that he had no connexion with them, against *primâ facie* evidence that he has a material connexion with them. I particularly allude to the fifth resolution—"That any attempt to violate those yet remaining laws, which were intended for the security of Englishmen against the tyranny of courts and ministers, and the corruption of dependent judges, by vesting in such judges a legislative or arbitrary power (such as has lately been exerted by the court of justiciary in Scotland), ought to be considered as dissolving entirely the social compact between the English nation and their governors, and driving them to an immediate appeal to that incontrovertible maxim of eternal justice; that the safety of the people"—you will remember the expression, gentlemen, in the paper of the 20th of January—"That the safety of the people is the supreme, and, in cases of necessity, the only law. That the arming and disciplining in this country, either with or without the consent of parliament"—I beg your attention to these words—"That the arming and disciplining in this country, either with or without the consent of parliament, any bands of emigrants and foreigners, driven from their own country for their known attachment to an infamous despotism, is an outrageous attempt to overawe and intimidate the free spirit of Britons; to subjugate them to an army of mercenary cut-throats, whose views and interests must, of necessity, be in direct opposition to those of the nation; and that no pretence whatever ought to induce the people to submit to so unconstitutional a measure."

Then I desire to know whether a convention being determined upon among these people, these two last resolutions have not a direct reference to the proceedings of the 17th of January, to the proceedings of the 20th of January, to the proceedings of the 24th of January, and whether they do not demonstrate, upon all fair reasoning, that this body which was to meet, was to meet upon a principle which superseded the necessity of all law; and which, according to these resolutions, was to pay as little attention to that, which was done with the consent of parliament, as that which was done without it? I should be exceedingly glad to know, if it be possible to give to such a convention the character of a body meaning to petition the parliament of this country; to convey to parliament the influence which ought always to be conveyed to it, the influence of those whom they represent, speaking to them in a constitutional manner, or whether, on the other hand, this was not to be a convention of the people, no longer to be governed by their laws, that is the laws of the legislature of the country, but in the room of the laws of their enemies, plunderers, and oppressors, to substitute their own laws.

Gentlemen of the jury, if this was to be the character of the convention, that was to meet in consequence of these proceedings in April, 1794, I conceive, with deference to the wisdom that presides here (it is my business to do my own duty as well as I can, and I am wedded to no opinion; I shall be, as an individual, most happy if any errors in my opinion are found favourable to the gentleman at the bar) if this be the character of that convention which was to meet in consequence of the proceedings upon the 14th of April, 1794; if from the whole tenor and purport of the evidence, which has been given, it is abundantly clear, as I conceive it to be (I should be happy if my conception be wrong, but I neither can discover my error in the law, or in fact), if the whole tenor of the proceedings stated to you proves that it was finally intended to bring about that National Convention, such as has been recommended in every step of the proceedings of these persons, from the 6th of August, 1792, down to the moment that I am now speaking, I then conceive the case is proved. And then, gentlemen, it will not be enough for the gentleman at the bar to satisfy you that he thought this at the time an imprudent measure;—that he thought it would not yet do;—that he thought that the time was not yet come. If he assented to the measure, though the measure was unequal at the time to the purpose, and the measure be of the character which this indictment charges it to be, it signifies nothing that he thought the purpose of it could not then be accomplished. Gentlemen, I say, beyond that, that you are bound to find this gentleman guilty, if he is guilty of any one overt-act in this indictment; and, if you negative what is stated about a convention, about writings that are stated in the indictment, as published for the purpose of procuring the traitorous convention to be holden; if you negative other overt-acts, yet if you find one overt-act in this indictment supported, which amounts to a manifestation of that intent, which the statute of Edward the 3rd requires to be manifested by an open deed, the case is then also made out against the gentleman at the bar.

Now, gentlemen of the jury, after apologizing to you for having taken up so much of your time, I would beg your attention shortly to what passed at Sheffield. I will not go through it, because I am really myself exhausted, and I perceive that many of you are. I conclude the case by saying this, that if it shall have happened at Sheffield, for instance, that arms have been provided; if it shall have happened that the reason assigned for providing arms at Sheffield, cannot possibly apply to the fact of sending to London a communication that such arms were to be sent up

to London, though there be no direct evidence with respect to the gentleman at the bar as to these arms, I think it consistent with my duty to submit to you whether all that has been stated to you, in which he is concerned, did not, in its necessary consequence, lead to that provision of arms, which actually does exist in the case. I say no more of it.

Gentlemen of the jury, I say farther, that in my view of this case, as the best consideration of it enables me to judge of it, it is not necessary (but whether I am right or wrong in that, you will be better advised by my lord) it is not necessary that any thing like a hostile weapon should have been prepared, if the purpose was finally to bring about a National Convention to act by force, when it began to act; if a step was taken to form that convention, which was so to provide itself with force when it was formed, I apprehend this case is established.

Gentlemen, having stated thus much to you, I have now only to say, that having discharged my duty to the best of my strength and power, I do most humbly intreat of the Court, that the gentleman at the bar may have the full benefit of a complete correction of every error into which I have fallen in point of law, and I do most humbly beseech of you, gentlemen,—for in the situation which I hold in the country, to a certain degree, at least, I ought to be counsel for those whom I prosecute, as well as counsel against them,—if I have mistaken, I think I have not, but if I have mistaken the result of the facts, I most anxiously beseech you that he may have the full benefit of a complete correction of such my mistake of such result, from you. May God Almighty direct you to a right verdict, and, whatever your conclusion upon the case is, may he grant that it may have a tendency to secure the peace and happiness of the country in which we live!

Summing up.

Lord Chief Justice *Eyre*.—Gentlemen of the Jury; The prisoner at the bar, John Horne Tooke, stands indicted for having, together with Thomas Hardy, John Augustus Bonney, Stewart Kydd, Jeremiah Joyce, Thos. Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, compassed and imagined the death of the king. The language of the charge is—That they conspired, compassed, imagined, and intended to stir up, move, and excite insurrection, rebellion, and war against the king, within this kingdom of Great Britain; and to subvert and alter the legislature, rule, and government therein established; and to depose the king from the royal state, title, power, and government of this kingdom; and to bring and put the king to death. And that to fulfil, perfect, and bring to effect their treasons and treasonable compassings and imaginations, aforesaid, they committed several overt-acts, which are charged in this indictment.

The first overt-act charged is, their meeting, consulting, conspiring, and agreeing to cause and procure a convention and meeting of the king's subjects, to be assembled within the kingdom, with intent and in order that the persons so to be assembled, might, without and in defiance of the authority and against the will of the parliament, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now established, and to depose and cause to be deposed the king, from the royal state, title, power, and government thereof.

The second overt-act charged is, the writing, composing, and publishing (the more readily and effectually to assemble such convention, for the traitorous purposes aforesaid, and thereby to accomplish the same) divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, purporting and containing therein incitements, encouragements, and exhortations, to move, induce, and persuade the king's subjects to choose, depute, and send, and cause to be chosen, deputed, and sent, persons as delegates, to compose and constitute such convention.

The third overt act charged is, "the meeting, consulting, and deliberating the more readily and effectually to assemble such convention, for the traitorous purposes aforesaid, concerning the calling and assembling such convention, and how, when, and where the same should be assembled and held, and by what means the subjects of our said lord the king should and might be induced and moved to send persons as delegates to compose and constitute the same."

The fourth overt act charged is, "the consenting and agreeing, for the same purpose, that Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, John Lovett, William Sharpe, and John Pearson should meet, confer, and co-operate among themselves, for and towards the calling and assembling such convention."

The fifth overt act is, "the causing and procuring to be made and provided, and consenting and agreeing to the making and providing of divers arms and offensive weapons, that is to say, guns, muskets, pikes, and axes, for the purpose of arming divers subjects of our said lord the king, in order, and to the intent that the same subjects should and might unlawfully, forcibly, and traitorously oppose and withstand our lord the king in the due and lawful exercise of his royal power and authority, in the execution of the laws and statutes of this realm, and should and might unlawfully, forcibly, and traitorously subvert and alter, and aid and assist in subverting and altering, without and in defiance of the authority, and against the will of the parliament,

of this kingdom, the legislature, rule, and government established in this kingdom, and to depose, and to aid and assist in deposing the king from the royal state, title, power, and government of this kingdom."

The sixth overt act is, "the meeting, conspiring, and agreeing to raise, levy, and make insurrection, rebellion, and war within this kingdom against the king."

The seventh overt act charged is, "the meeting, conspiring, consulting, and agreeing to subvert and alter, and cause to be subverted and altered, the legislature, rule, and government established in this kingdom, and to depose, and cause to be deposed, the king, from his royal state, title, power, and government of this kingdom."

The eighth overt act charged is, "the preparing and composing divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, and dispersing the same, containing therein incitements, encouragements, and exhortations to move, induce, and persuade the subjects of our said lord the king to aid and assist in carrying into effect such traitorous subversion, alteration, and deposition, and also containing therein information, instructions, and directions to the subjects of our said lord the king, how, when, and upon what occasions the traitorous purposes last aforesaid should and might be carried into effect."

The ninth overt act charged is, "the procuring and providing arms and offensive weapons, to wit, guns, muskets, pikes, and axes, therewith to levy and wage war, insurrection, and rebellion against our said lord the king, within this kingdom."

Gentlemen, a shorter abstract of this indictment is, that the first four overt acts mentioned in the indictment respect the assembling a convention, for the purpose of usurping the government; three of the other overt acts, that is to say, the fifth, the seventh, and the eighth, respect a conspiracy to subvert the government, without taking notice of the assembling a convention; the sixth and ninth overt acts respect a conspiracy to levy war.

Gentlemen, I perceive it is expected of me that I should undergo the fatigue and labour of summing up to you the whole of this case which has been laid before you in evidence; I shall with the assistance of the officer, execute that duty as well as I am able. When I have stated to you, and you have heard the particulars, of the evidence, I shall then state to you, in as few words as possible, what I conceive to be the points for your consideration; how the evidence bears upon the different parts of the indictment; and what will be ultimately the question for your consideration.

Gentlemen, on the part of the prosecution they began with calling Maclean, the messenger, who told you, that upon the twelfth of May, he went with a warrant from the secretary of state, to the house of Daniel Adams; that he there seized certain books and papers; and that the book now produced is one of those books and papers.

Mr. Woodfall was then called, in order to prove that in a particular paper shown to him there is the hand-writing of Mr. Horne Tooke, who now stands at the bar. He said he believed the paper had his hand-writing in it; that he had seen him write; and that his writing had passed through his, (the witness's) hands upon more than one occasion.

Upon his cross-examination, he said it was full seventeen years ago—I think, upon being particularly pressed upon the subject, he said it might be nineteen years ago—when he saw Mr. Horne Tooke write; he mentioned that there was a particular advertisement, which was to be inserted in some of the newspapers; that Mr. Horne Tooke wrote upon that advertisement—"For the Morning Chronicle and London Packet;" he says, to the best of his judgment, and from his recollection of the hand-writing, he believes the paper produced is of the prisoner's hand. And upon the credit of that testimony rests the proof of the hand-writing of Mr. Horne Tooke to all the papers that have been produced in the course of this inquiry, which have been supposed to be written, either in part or in the whole, by Mr. Horne Tooke. He observed upon a difference, with regard to the particular paper now produced, of an *r* in the word chairman; but I think nothing very material turns upon that.—The paper is a paper of the 28th of March, 1794.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 28th of March, 1794,

"PRESENT,

"Mr. John Pearson in the chair,

"Mr. H. Tooke, Mr. Bonney, Mr. Hull, Mr. William Sharpe, Mr. Wills, Mr. Wardle, rev. Mr. Joyce, Mr. Kydd, Mr. J. Williams, rev. Dr. Towers, Mr. Thompson, Mr. Scott, Mr. Holcroft, Mr. Beck, Mr. Parkinson, Mr. Banks, Mr. Stark, Mr. Moore, Mr. Jennings.

"Resolved, That an address be sent from this society to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald.

"The following address was proposed by Mr. Joyce, to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald:

"Friends and Fellow Citizens;—Although we have hitherto been the silent, yet we have by no means been the unconcerned spectators of your conduct and sufferings. We have seen and approved of your exertions for your country's happiness; we have marked, with honest indignation, every step that your enemies have taken to bring you to your present situation.—Your enemies are the enemies of public liberty;—the men who are

conspiring against the happiness of mankind.—The cause in which you embarked, and to which you have borne an honourable testimony, is worthy of every exertion, and its importance to the world too great to expect its accomplishment without opposition.

"The history of liberty, for whose sake you are doomed to a long and unmerited exile, will afford, in the present instance, that consolation that former martyrs to the same cause have experienced; the consolation that you will not, you cannot suffer in vain.

"Man may perish, but truth will prevail; neither persecution, nor banishment, nor death itself, can finally injure the progress of those principles which involve the general happiness of man.

"While, therefore, we join every friend to humanity in lamenting what you have already endured, and with anxious hearts anticipate the perils to which you may be exposed in a barren and uncultivated country; yet we can rejoice, that the sources of happiness are limited to no place, but are as extensive as the dominion of God:—under the protection of that Great Being may you, at all times, and in all places, feel the pleasure that arises from conscious integrity.

"Fellow citizens, we assure you, that the memory of your virtues shall never be effaced from our breasts; the cause for which you have struggled, is a glorious cause; the world that has witnessed your exertions, shall witness ours also.—A full and fair representation of the people of Great Britain we seek, with all the ardour of men and Britons; for the sake of which we are not only ready to act with vigour and unanimity, but, we trust, prepared also to suffer with constancy.

"Our best wishes will ever attend you; and we do believe that the day is not very distant when we shall again receive you, on British shores, the welcome children of A FREE and HAPPY country."

"Resolved, That the same be sent to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald.

"Ordered, That the said address be published in the newspapers.

"Mr. Joyce gave notice, that he would, on Friday next, bring forward a motion relative to the speech of Mr. Dundas, on Tuesday last, respecting the introduction of Scotch law in England.

"Read a letter from the London Corresponding Society.

"Resolved, That the same be entered on the books of this society.

March, 27th, 1794.

"To the Secretary of the Society for Constitutional Information.

"Citizens;—I am directed, by the London Corresponding Society, to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society, respecting the important measures which the present juncture of affairs seems to require.

"The London Corresponding Society conceives, that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom,—Whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as *distinguished*, on *our* parts, as the *treachery* of *others*, in the same glorious cause, is *notorious*. The Society for Constitutional Information is therefore required to determine, whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people.—Whether they concur with us in seeing the necessity of *a speedy convention*, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we, at present, labour, and which can only be effectually removed by a full and fair representation of the PEOPLE of Great Britain. The London Corresponding Society cannot but remind their friends, that the present crisis demands all the prudence, unanimity, and vigour, that ever may or can be exerted by MEN *and Britons*; nor do they doubt, but what manly firmness and constancy will finally, and they believe shortly, TERMINATE in the full accomplishment of all their wishes. I am, fellow citizen (in my humble measure), a friend to the rights of man,

(Signed) "T. HARDY, secretary."

"Resolved unanimously, 1st, That dear as JUSTICE and LIBERTY are to Britons, yet the value of them is comparatively small, without a dependence on their permanency; and there can be no security for the continuance of any *Right*, but in EQUAL LAWS.

"2nd, That equal laws can never be expected, but by a full and fair representation of the people.—To obtain which, in the way pointed out by the constitution, has been and is the sole object of this society.—For this we are ready to hazard every thing; and never, but with our lives, will we relinquish an object which involves the happiness, or even the political existence of ourselves and posterity.

"3rd, That it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have *been* wrested from us, and of which scarcely a vestige remains; there ought to be *immediately* a CONVENTION of the PEOPLE, by delegates, deputed for that purpose, from the different societies of the *Friends* of *Freedom*, assembled in the various parts of this nation. And we pledge ourselves to the public, to pursue every legal method speedily to accomplish so desirable a purpose.

"P. S. I have to inform you, that a general meeting of the society will be holden on

Monday, the 14th of April, the place to be announced by public advertisement."

"Resolved, That it is fit and proper, and the duty of this society, to send an answer to the London Corresponding Society.

"Ordered, That the secretary acquaint the London Corresponding Society, that we have received their communication, and heartily concur with them in the objects they have in view; and that, for the purpose of a more speedy and effectual co-operation, we invite them to send to this society, next Friday evening, a delegation of some of their members."

Mr. Woodfall was examined as to the hand-writing of a book, the outside of which was intituled, "The Constitutional Club;" he proves it to be the hand-writing of Mr. Horne Tooke, but I do not perceive that any use has been made of that book in the course of the cause.

The next witness is Daniel Adams;—he said that he had been secretary to the Constitutional Society for ten years; that the book produced to him was the book of that society; that Mr. Horne Tooke was a member; that the usage was to put down as present at the different meetings the names of the persons, who might in fact not have been present; he explained that, he said many names were put down as the persons came, but that they often went away soon after they came; that they frequently dined together, that the society was formed at seven in the evening, and the names of the persons who dined, if they were members of the society, were entered; that the minutes of the former meeting were read over at the commencement of the new meeting; he does not know that there were any corrections of those minutes in the hand-writing of Mr. Horne Tooke. He said that during the meetings the books lay open; that Mr. Tooke was frequently there, but sometimes he did not stay long, living out of town. He was asked as to the minutes of the different resolutions being handed up by different people, he said he could not speak to that. As to one of the books produced, he said it was before the time when he was secretary; he said that the person who was in the chair might not remain all the evening in the chair, but he never put down the name of any person as being in the chair, who had not taken the chair; it might happen that he might not stay the whole time; he said that the entries were true as far as he knew; that as to the names of the persons who were set down as present at the different meetings, they were generally put down on one piece of paper, but that the resolutions were often upon slips of paper.

He said, that there was not only the Society for Constitutional Information, but likewise the Constitutional Club, who dined together; that the dinner was at a quarter past four; that not only the members but other persons also dined there; he said, the prisoner was a member before he himself became secretary; and that at the time he was candidate for the office of secretary, it was known that he had a place in a public office. He said there were books of account of the expenditure kept by the society, which were seized with the other papers; he said they subscribed a guinea a-year; that the society was never very rich; that the amount of the subscriptions might be about sixty pounds; and that perhaps fifty pounds of that sixty might be for the necessary expenses, and he himself was generally in advance. He said he recollected the transaction upon the twenty-fifth of October, 1793, and that the prisoner was there; and he recollected that there was an extraordinary meeting proposed on that day, to consider of sending delegates to the British Convention in Scotland, but that Mr. Tooke was not there at that time; he said he, as secretary, was directed to send summonses to different members for that meeting; he recollects that he sent none to Mr. Tooke because two of the members undertook to go to him, and inform him that such a meeting was intended; the names of these two persons were Mr. Sinclair and Mr. John Williams; he said the meeting was accordingly held upon the twenty-eighth, that the prisoner was not there; he said that he had reason to know that Mr. Horne Tooke spoke with anger of sending delegates to the Scotch Convention; he understood by the conversation of almost all the members, that the prisoner very much objected to it; he said that there was even a report among them that he was bribed by the government.

He was then asked as to one Yorke; he said he never understood that Yorke was a member; that Yorke did not go to the convention in Scotland because he wanted money, and there was none for him; that they had hardly any to give to Sinclair who did go; he said he sent Sinclair word that he had better come home, that his going there was generally disapproved of, and his being there was disapproved of; he said he did not know that Mr. Horne Tooke ever subscribed to the expense of sending these delegates; he said he wrote to Mr. Sinclair more than one discouraging letter upon the subject of his staying at Edinburgh. He said the society adjourned from the eighth of November to the sixth of December, and from thence to the tenth of January; he recollected that upon the twentieth of June, 1793, there was a meeting of the society, and that Yorke's name was down as being present at that meeting, and he believed he was present; he recollected that he himself objected to Yorke's being present, understanding him not to be a member of the society, that Yorke pressed for another meeting, there being at that time an appearance of an intention to adjourn the meeting; that upon that occasion there was an address resolved on, but that that address was never drawn up.

He said Mr. Tooke lived at some distance from London, that he has a small family, and often went home early; he has sometimes desired Mr. Horne Tooke to stay, to prevent the society from doing some act which he did not wish should take place; that Mr. Horne Tooke's opinion was, that the society should lay upon their oars, and adjourn to as distant a day as they could. Mr. Horne Tooke always professed that he never would consent to any measure that he would not sign. Major Cartwright was called the Father and Founder of the Society. He said that they were not acquainted with the contents of the books and papers of others societies, that it was not much the custom of the members of this society even to read over their own proceedings, and that upon an average not more than ten used to meet.

He was asked as to arms, he said there were no arms in the society, and no talk of arms; he said that all the members were not of the same way of thinking. He was asked as to a Secret Committee of this Society, he said there was no such thing as a Secret Committee, that every thing was transacted openly and publicly, that there were frequently Committees of Correspondence named, but there were not above one or two letters written to his knowledge. He was asked as to the printing a number of copies of papers that the resolutions of the society purported should be printed; he said that there never was a quarter part of a hundred thousand papers printed, he did not know of more than five thousand at any one time; he thought he could venture to say it never exceeded ten thousand; he knew that a hundred thousand had been ordered to be printed, but very often none at all had been printed; he did not know that there was any correspondence, except from France, and that as to that, no answer was sent to it; they were often reproached for not answering letters: he said other members often went home with Mr. Horne Tooke, and he mentioned Mr. Sharpe in particular.

He said when he first became secretary they used to print pamphlets, and distribute them gratis, but that this had not been the practice for the last three or four years, that some however may have been printed; he remembered having mentioned to Mr. Horne Tooke his apprehension that he should be dismissed from his place. He was asked whether he recollected Mr. Horne Tooke saying to him that the society could do him no good, and advising him to go and give an account of all that he knew; that circumstance he did not recollect; he said the privy council had before them the books of expenditure of this society; that they could not afford to print much, and he thought they never meant to print any of those copies that the resolutions went to. Upon the fourteenth of November, 1792, a hundred thousand copies were ordered to be printed and distributed among their correspondents in England and Ireland, but that in fact there were no correspondents in Ireland that he knew of, and he said Mr. Horne Tooke very often laughed at the insignificance of that society. He was asked by Mr. Horne Tooke whether he had ever known him speak of the right which every man had to vote. I rather believe Mr. Horne Tooke expected the answer would be that he had spoken against that idea, but the witness said he has heard Mr. Horne Tooke speak of being for every man's voting. He said he was present at the anniversary of the society upon the second of May last; he could not call to his memory what Mr. Tooke interrogated him to, being in another part of the room.

He said he attended the anniversary of the French Revolution in 1790; that there were some resolutions put which he thought were strong, and there were some which Mr. Horne Tooke stopped. He was asked whether he had ever observed that there was any intention in Mr. Horne Tooke, or any of the society, to depose or kill the king, he said no, they were neither bold enough, nor strong enough, to undertake any such thing; he said the greater part were for parliamentary reform, but perhaps all of them in different ways; he believed that all of them however expressed what they meant, and that it was not a pretext which they used; that they were sincere in wishing a reform in the Commons House of Parliament, but did not all agree in the manner. He said letters were sent to them from Scotland, he did not recollect what answers were returned. He was asked whether he had given up all the papers that he had to government at the time his papers were seized; he said that he did not know that any papers were kept back from government.

He said there was a committee of correspondence appointed upon the fourth of April, 1794; he remembered upon that occasion Mr. Horne Tooke who as I understood him was present, said that his health would not permit his being of that committee, and he thought that Mr. Horne Tooke did not in fact ever meet that committee, nor did he know that in fact that committee ever met. He said that upon the eleventh of April the committee of correspondence was appointed to be the committeee of co-operation; he did not know that Mr. Horne Tooke ever met that committee, and he did not understand that he was a member of that committee; he said he remembered there was a notice given by Mr. Horne Tooke that he should move for two books to be provided, in which the names of particular persons were to be entered, and he said that there was a little laughing upon the subject of that motion, but that in fact the motion never was made, and the books never were procured.

He said that Mr. Horne Tooke said upon one occasion, that if there were to be a meeting of the Friends of Liberty at Wimbledon

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Common for any good purpose, he would be found there, but that he would not go any where else. You recollect Mr. Horne Tooke observed that there was something against him and something for him in that answer; that whatever his zeal might be to meet the Friends of Freedom, he would not go far in order to give them his assistance. He (the witness(said that there is a Revolution Society which meets once a-year, in November, he remembered a toast being given by Mr. Horne Tooke at that Revolution Society, and the toast was in these words—"May the people of this country never forget nor forsake the present family on the throne, until it shall appear, by their conduct, that they have forgotten or forsaken, the principles that placed them on it."

He said Mr. Tooke established the dinner club, in order to procure, as he understood, a better attendance upon the society; that the great end they had in view was a parliamentary reform. He was asked whether there was any great selection as to candidates for this society—whether they were often black-balled; he said, that in ten years he did not believe that more than ten were black-balled; he said, he could not undertake to swear that the persons whose names are set to the resolutions were present when all the resolutions passed; he said, in reference to a motion which appears to have been made in this society in 1793, that Barrère, St. André, and Roland, should be made honorary members of that society; that no notice was ever sent to them of their election; and there being in the books of the society an order for entering the speeches made by those persons as they were published in the Moniteur of Paris, that, in point of fact, the speeches were not entered; and he said, he never had the newspaper in which they were contained, and he did not know that that newspaper was ever circulated in the society; he said, that, after the commencement of the war, there was no correspondence with France.

He was asked as to a letter from Margarot to Hardy, speaking of Sinclair being ill, but as having been basely abandoned by the society; he said, he remembers seeing such a letter. He was asked as to Mr. Horne Tooke's health—whether he had not quitted London upon account of ill-health; he said, that three years ago Mr. Tooke did quit London on account of ill-health, and went to reside at Wimbledon.

The witness being farther examined, looked at an entry in the book on the eleventh of April, 1794, he said, Mr. Joyce was then in the chair, and Mr. Horne Tooke appears to be named as present.

They then read the proceedings of the Society for Constitutional information on the eleventh of April, 1794.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, April 11, 1794.

"PRESENT,

"Mr. Joyce in the chair,

"Mr. J. Williams, Mr. Tooke, Mr. J. Pearson, Mr. Symonds, Mr. Hull, Mr. Wardle, Mr. Milner, Mr. Kyd, Mr. Wills, Mr. Thelwall, Mr. Scott, Mr. Thompson, Mr. G. Williams, Mr. Holcroft, Mr. Chatfield, Mr. Beck, Mr. Hardy, rev. Mr. Macewen *(Dundee)*, Mr. Fawcett *(Pancrass-lane)*, Mr. Jennings, Mr. Richter.

"Mr. Joyce made the report of the meeting of the delegates of the London Corresponding Society, for the purpose of this society co-operating with the London Corresponding Society, and that they had come to the following resolutions:

"1st, Resolved, That it appears to this committee very desirable that a general meeting or convention of the friends of liberty, should be called for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people.

"2nd, Resolved, That it is recommended to the Society for Constitutional Information, and the London Corresponding Society, to institute a regular and pressing correspondence with all those parts of the country where such measures may be likely to be promoted, not only to instigate the societies already formed, but to endeavour also to produce such other associations as may farther the general object.

"3rd, Resolved, That it appears to this committee, that the general object will be much promoted, if a standing committee of co-operation between the two societies were established, for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorized by their respective societies to act with such committees."

"Read the following letter from the secretary to the London Corresponding Society.

"*April* 10, 1794.

"Citizen;—I am ordered by the committee of delegates of the London Corresponding Society, to inform the Society for Constitutional Information that they approve of the resolutions of the committee of conference.

"Therefore, the London Corresponding Society have chosen Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, and John Lovett, to put in practice immediately the second and third resolutions of that committee.

(Signed) "THOMAS HARDY, secretary.
"D. Adams, secretary to the Society for Constitutional Information."

"Resolved, That the report of the committee of delegates from the London Corresponding Society, and of this society, be entered in the books of this society.

"1st, Resolved, That it appears to this society very desirable, that a general meeting of the friends of liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people.

"2nd, Resolved, That it appears to this society, that the general object will be much promoted if a standing committee of co-operation were established for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorized by their respective societies to act with committees.

"3rd, Resolved, That the committee of correspondence already appointed by this society, be the committee for co-operation and communication with the committees of other societies.

"Ordered, That the secretary be desired to send a letter to the London Corresponding Society, acquainting them with the members of this society appointed to confer with them.

"Resolved, That Mr. Joyce be requested to accept of the office of secretary of the committee of correspondence.

"Mr. Joyce being present, accepted of the said office."

The use that is made of this paper is, to bring home to Mr. Horne Tooke's knowledge the transactions of that committee, originally of delegates, and afterwards of correspondence and co-operation, at which it appears, by the evidence of Mr. Adams, that he was not himself present. Though not present, if he drew up the resolutions, or was privy to the resolutions, that certainly is evidence to show that he was privy to and concurred in these resolutions, though he was not himself present at the meeting when these resolutions were come to—Such is the nature of the evidence.

They next produced a paper signed also by Mr. Horne Tooke, purporting to be the minute of a resolution which passed in the Constitutional Society upon the 24th of January, 1794.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 24th January 1794.

"PRESENT.

"Mr. John Pearson in the chair,

"Mr. Horne Tooke, count Zenobio, Mr. Frost, Mr. Bonney, rev. Mr. Joyce, Mr. J. Williams, Mr. Stark, Mr. Banks, Mr. Rutt, Mr. Bonham, Mr. Kydd, captain Gawler, Mr. Wardle, Mr. Holcroft, Mr. Jennings, Mr. Watts, Mr. John Martin.

"A motion was made, that it be

"Resolved, That the most excellent address of the London Corresponding Society, be inserted in the books of this society, and *that the* King's speech to His * parliament be inserted UNDER IT.—In order that they may be always ready, for the perpetual reference of the members of this society, during the continuance of the present unfortunate war; and that, in perpetuam rei memoriam, they may be printed together, in one sheet, at the *Happy* conclusion of it; which happy conclusion, according to the present *prosperous* appearances, we hope and believe not to be many months distant.

"* An amendment was moved, 'That 'between the words His and Parliament, the 'word *Honourable* should be inserted.'

"*Honourable* was withdrawn.

"Another amendment was then moved, 'That between the words His and Parliament, 'the word *Faithful* should be inserted.'

"*Faithful* was withdrawn.

"And it was unanimously resolved, 'That 'His, and His only, is the proper epithet for 'parliament upon the present occasion.'

"The resolution then passed unanimously, in its original form.

"Resolved, That the London Corresponding Society have deserved well of their country.

"Resolved, That the secretary be ordered to cause forty thousand copies of the address, the speech, and these resolutions, to be printed on one sheet, and properly distributed in England, Scotland, and Ireland.

"Resolved, That these resolutions be published in the newspapers."

This minute is proved by Mr. Woodfall to be partly in the hand-writing of Mr. Tooke; as to the rest Adams did not know whose hand it was, but rather thought it might be Mr. Bonney's.

They then examined the witness, Adams, to different entries in the books of the Constitutional Society, in order to satisfy you that the transactions really passed according as they are entered in these books, to the best of the knowledge of this witness, who was the secretary of this society; this he proved: his evidence, however, is always to be taken with the evidence that he before gave, that though the names of particular persons appear to have been set against the particular meetings, it might happen that the name of a person might be there who did not remain at the time that a particular resolution passed; because, he said, it often happened that a person whose name was set down, having dined there, and being there at the opening of the meeting, went away before the particular resolution passed. With that reserve he goes through the book, and does establish that the entries are fairly made, to the best of his knowledge, and that the names are fairly set down of the persons present, in some part of the evening, when these different meetings were held, and these resolutions were passed. This evidence goes to all the transactions of the whole period from 1791 down to 1794, when Mr. Adams's knowledge of the transactions of this society ceased, by his being ap-

prehended. I am afraid it will be necessary for me to go through his evidence respecting the entries in these books, because there were circumstances of evidence interspersed which are collateral to the subject matter of the entries, and which may be thought material on one side or the other.

He first spoke of the entry of the twenty-third of March, 1792, when thanks were given to Thomas Paine for his most masterly book, intituled, The Rights of Man; and there is an order to distribute copies of this book to all their correspondents in England, Scotland, and France; and this resolution was to be published.—Mr. Horne Tooke appeared to be present.

Upon the first of April, 1791, Mr. Horne Tooke appears also to be present, when there was an order that the resolution should be re-published in certain papers named; many of them were the country papers. The witness said he did not know whether they were in fact published accordingly or not.

Upon the ninth of March, 1792, Joel Barlow, the author of Advice to the Privileged Orders, was proposed as an honorary member by Mr. Tooke, seconded by Mr. Sharpe.

Upon the sixteenth of March, thanks were given to a society at Manchester for a communication which they made, and a declaration of the hearty concurrence of this society. The rough draft of this appears to be in Mr. Horne Tooke's hand-writing.

Upon the twenty-third of March, 1792, there is a resolution, the minutes of which were in Mr. Horne Tooke's hand; the resolution is —That the Constitutional Society approve of a communication from the Sheffield Society. There is a draft of a letter to the Sheffield Society produced; the witness said he did not know whose hand-writing it was; Mr. Woodfall, however, said, that the main body of it is Mr. Horne Tooke's hand;—there mention is made of associating twelve of the Sheffield Society, as members of the Constitutional Society.

Upon the twelfth of April, 1792, there was a communication from the Three Tuns in the borough of Southwark; and he said that there were thanks voted, and a resolution to publish that vote. Upon the twenty-seventh of April, 1792, when Mr. Tooke was present, there was a letter produced; and upon the fourth of May, Mr. Tooke was present, when there was an entry of a letter to the Revolution Society at Norwich, and when Mr. Paine was made an honorary member. And there is an entry of their approbation of Mr. Paine's writings.

He was asked whether a letter produced was the original letter; he said he believed it was the letter, but he did not undertake to know the hand-writing. He said that Mr. Martin was proposed by Mr. Horne Tooke to be an honorary member, and seconded by Mr. Frost; he said that a letter was afterwards received from Martin, to thank them for the honour they had done him; but he would not undertake to say whose hand the letter produced was. He said there was a meeting of the society upon the eleventh of May, 1792—Mr. Tooke was present; an address was voted to the Jacobins, and there was a resolution that Mr. Horne Tooke transmit it to Monsieur Petion, at Paris. There was another resolution, that the address be read a second time at the next meeting, with a view to its being ordered to be published. Upon the 18th of May, 1792, at a meeting of the society, Mr. Tooke being in the chair, that address was accordingly read, and ordered to be published. He said, a letter was received from Mr. Paine, that he was about to publish a cheap edition of his Rights of Man; there was a resolution to thank Paine, and to support him, and a committee was appointed to inquire into the intended prosecution against him; three thousand copies of Paine's letter and the resolutions were ordered to be published, and to be transmitted to the associated societies; and this resolution was also ordered to be published. At a meeting upon the twenty-fifth of May, Mr. Horne Tooke being present, six thousand more copies were ordered to be printed and distributed to the different country societies, in the respective proportions expressed in the resolutions. There was a meeting of the society on the first of June 1792, Mr. Horne Tooke being present; there was a report from the secretary, that there had been copies of the bills ordered at the lest meeting sent to the different societies, according to the order at the last meeting—Mr. Adams said, he had no doubt they were accordingly sent. He said, there was a letter from the London Corresponding Society, of the thirty-first of May, 1792, signed Margarot and Hardy, which was ordered to be published in such newspapers as would receive the advertisements of this society. Upon the fifteenth of June, he said, there was a meeting, when Mr. Horne Tooke was in the chair; read a letter from the London Corresponding Society; twelve thousand copies of Paine's letter to Mr. Dundas were ordered to be printed, and a committee was appointed to conduct this operation, of which Mr. Horne Tooke was one—The minutes are produced, and they appear to be Mr. Tooke's hand-writing. He said, there was a meeting upon the twenty-second of June, 1792—Mr. Tooke present; a subscription was entered into for the benefit of Mr. Paine. Upon the twenty-ninth of June, 1792, the committee which had been before nominated to consider of a plan for the distribution of the twelve thousand copies of Mr. Paine's letter to Mr. Dundas, reported a plan, which was adopted; whether to be printed or no he could not tell. Upon the thirteenth of July, 1792, six persons, members of the Corresponding Society, were elected as associated members. There was another meeting of the society upon the fifth of October, 1792—Mr. Horne Tooke present;

it does not appear that any thing material was done.

He said, there was a meeting upon the twelfth of October, 1792, Mr. Horne Tooke being present; a letter, written by Joel Barlow to the National Convention of France, was read; and Mr. Joel Barlow wrote to the society, expressing his satisfaction at being made an honorary member. There was at the same time an address from the London Corresponding Society to the National Convention of France read and entered. Upon the nineteenth of October there was a meeting, Mr. Horne Tooke in the chair; an answer to Mr. Joel Barlow was read, which was ordered to be published; Mr. Horne Tooke was appointed one of a committee to confer with the delegates of the London Corresponding Society respecting an address to the National Convention of France. Upon the twenty-sixth of October, 1792, there was a meeting of the society, Mr. Horne Tooke present; addresses were recommended by the committee of that society; they were not to present a joint address to the Convention, but to present separate addresses. At a meeting upon the ninth of November, Mr. Tooke being present, an address to the French Convention from this society was read and approved, and Mr. Barlow and Mr. Frost were appointed to present it, and they were thanked for accepting that appointment. At a meeting on the fourteenth of December, Mr. Tooke being present, an address from Manchester was read, and ordered to be printed in the newspapers, and a hundred thousand copies were ordered to be printed. He said there was a letter from Laon began to be read upon that day, but it was in French, and he thinks the reading was not pursued. Upon the twenty-first of December, 1792, a Committee of Correspondence was appointed, of which Mr. Tooke was one. Upon the fourth of May, 1792, Mr. Tooke proposed Mr. Gerrald as a member of this society. Upon the eighteenth of January, 1793, Mr. Tooke being present, St. André, a French gentleman, was associated a member of this society. Upon the twenty-fifth of January, Mr. Tooke being present, Roland and Barrère were also made honorary members of this society. Upon the first of February, Mr. Tooke being present, there was a letter from the society at Sheffield, requesting to have twelve of their members associated to this society. Upon the fifteenth of March, 1793, Mr. Tooke being present, thanks were voted to Joel Barlow and John Frost, for their having executed their commission to the National Convention of France, approving of the manner in which they had conducted themselves. Upon the eighteenth of May, 1793, Mr. Tooke proposed Mr. Sinclair as a member. Upon the twelfth of April, 1793, Mr. Tooke being present, an answer to a letter from Norwich was voted. Mr. Tooke is stated to be present upon the twenty-first of June, 1793, and the twenty-eighth of June. Upon the twenty-fifth of October, 1793, Mr. Tooke was present, Sinclair read a letter with an address from Skirving, who was secretary to the Convention of the Friends of the People in Scotland, to the secretary of the London Corresponding Society. Upon the sixth of December, 1793, a meeting was appointed for the second Friday in January, to consider of Mr. Sinclair's letters. Upon the twenty-eighth of March, 1794, Mr. Tooke being present, they came to a resolution to enter upon their minutes a letter from the London Corresponding Society. Upon the fourth of April, 1794, Mr. Tooke being present, certain resolutions passed. Upon the ninth of May, 1794, Mr. Tooke being present, two thousand copies of a pamphlet were ordered to be printed.

The witness then said, that though there had been an order upon the twenty-fourth of January, for the address of the London Corresponding Society to be entered in the books of the society, in point of fact it was not entered, and he could not take upon himself to say who the individuals were that had come to the resolution upon that subject. He was asked whether in the year 1790, Mr. Tooke was not a candidate for Westminster, he said he was; he was asked whether Mr. Vaughan was a member of the Constitutional Society, he said he was not a member, and that they did not admit strangers to the society, but that Mr. Vaughan might probably dine there with that part of the society that made the dinner club. He said Mr. Tooke was not present upon the twenty-fifth of October, 1793; he would not undertake, however, to say that he was not present at any part of the meeting.

Having thus gone through the account of the different entries in the book, in order to show, that in fact, they were entries of transactions that really happened; they then began to read the entries distinctly, and at large, from the book; they began with the entry of the twenty-third of March, 1791, that the thanks of this society be given to Mr. Thomas Paine for his masterly work, the Rights of Man, that you will, therefore, now hear read.

[*Vide* p. 112 of this volume.]

They then call Thomas Chapman, in order to identify the book called the Rights of Man, and with a view that such parts of it as were thought to be material to the case should be read in evidence; he said he printed part of the Rights of Man for the author; the book was delivered in, and they read some passages from it; those passages you will now hear again.

[See them in the trial of *Thomas Hardy, ante* Vol. 24, p. 497]

The next thing they read was an entry from the books of the Constitutional Society, upon the twenty-second of July, 1791; this had not been mentioned by Adams in giving his evidence, but he afterwards substantiated this

entry; Mr. Horne Tooke was not present; it contains the original, and the translation of an address from a society in France, which was ordered to be entered. It is addressed to the Friends of Liberty assembled together in London upon the fourteenth of July, 1791, to celebrate the French Revolation.

[*Vide* p. 115 of this Volume.]

Some questions were put to Mr. Adams by way of cross-examination, but I think nothing material arose from them.

The next witness, John Thompson, spoke to a paper found at Mr. Horne Tooke's house at Wimbledom; it has no date; there are two parts, one is interlined with Mr. Horne Tooke's hand, as is proved by Mr. Woodfall, the other part is in a different hand-writing—it is an address and declaration at a select meeting of the Friends of Universal Peace and Liberty.

[*Vide* p. 116 of this Volume.]

The material passage which I suppose they mean to insist upon on the part of the prosecution seems to be this—"We profess and proclaim it as our principle, that every nation has at all times an inherent indefeasible right to constitute and establish such government for itself as best accords with its disposition, interest, and happiness."

As far as respects the alteration in the French government, it does not seem as if it would have any very material application to the present case.

The next was a paper found in Mr. Tooke's house by Thornton, one of the persons who assisted at the time of seizing Mr. Tooke's papers, and which purports to be a letter from Mr. Cooper, of Manchester, upon the subject of making an abridgment of Paine's works. I do not think it very necessary to trouble you with hearing that letter read. There is another letter also from the same person, bearing date the twenty-ninth of August, 1791, speaking of having received a letter from Mr. Tooke, and other subjects not extremely material to the present inquiry. Among other things, it speaks of a Mr. Wheeler, a printer, at Manchester, having had some difficulties about printing some of the works which Mr. Walker, of Manchester, wished to be printed.

The next piece of evidence is a paper which was seized at the house of Hardy, which is proved, by Mr. Woodfall, to have interlineations in it, and four lines at the bottom of Mr. Tooke's hand-writing; this you will hear read, it seems to be a paper which has some reference to the original institution of the London Corresponding Society, and the counsel for the prosecution infer from this paper, thus found in the hands of Hardy, with interlineations, and some lines added by Mr. Tooke, that he had some kind of privity, intercourse, or connexion in the forming of that society; whether the observation is warranted by the fact, you will judge when you hear the evidence.

[*Vide Hardy's* trial, *ante* Vol. 24, p. 373.]

Gentlemen, the next piece of evidence was a letter of the fourteenth of March, 1792, found by Maclean upon Adams, the secretary of the Constitutional Society, addressed to him from Sheffield. The import of this letter is to inform the secretary of the Constitutional Society, that they had, about four months since, formed themselves into a society, then very few in number, but that they had increased, and were likely to become numerous, for that not only that large and populous town, but the whole neighbourhood for many miles round had an attentive eye upon them; that most of the towns and villages were forming themselves into similar associations, and strictly adhered to the mode of copying after them; that they had taken the liberty of writing to Mr. Horne Tooke, described to be that worthy friend and patriot for the rights of the people, informing him of their earnest desires of entering into a connexion with the society of the same denomination with theirs in London; they say his very obliging and affectionate answer favours us with your address; in consequence we have taken the liberty herewith to transmit to you (Mr. Adams) some resolves—proposing to enter into a connexion and correspondence with this society. Nothing more is to be found in this letter, and therefore I do not trouble you with hearing it particularly read. There is a postscript, in which the writer says—We have taken the liberty of enclosing a parcel for Hardy, in answer to a letter from him to this society, requesting some information concerning our method of conducting the business, and informing them that there are in London, a number of mechanics, shoemakers, &c. forming themselves into a society on the broad basis of the Rights of Man, and desiring that the packet may remain with Mr. Adams till it shall be called for; it mentioned that he had given to Mr. Hardy an account of their manner of proceeding, and stating an improvement that they had adopted proper for great and populous towns, that is, dividing themselves into smaller bodies, or meetings of ten persons, each of these ten to appoint a delegate; ten of these delegates to form another meeting, and so on delegating from one to another, till at last they are reduced to a proper number for constituting the committee, or grand council. That is the substance of that letter.

They next produce a paper found upon Adams, which is a letter from Ashton, secretary to the Sheffield Society, dated the fourteenth of March, 1792; that letter shall be read to you.

"Gentlemen;—This society, feeling as they do, the grievous effects of the present corrupt state defects, and abuse of our country; the great and heavy oppressions which the common mass of the people labour under, as the natural consequence of that

corruption; and at the same time being sensible, to a degree of certainty, that the public minds, and general sentiments of the people, are determined to obtain, A RADICAL REFORM OF THE COUNTRY, as soon as prudence and discretion will permit, believes it their duty to make use of every prudent means, as far as their abilities can be extended, to obtain so salutary and desirable an object as a thorough reformation of our country. For these reasons, with great deference and submission to the members of the Society for Constitutional Information in London, we beg leave to request that they will be pleased to admit the persons of the following names annexed hereto as members of their society (they being our friends, and members of our society), in order that a close connexion may be formed, and a regular communication maintained, between the two bodies; that, being thus strengthened this society may be better enabled to govern itself with more propriety, and to render assistance to their fellow-citizens in this neighbourhood, and in parts more remote; that they, in their turn, may extend useful knowledge still farther, from town to village, and from village to town, until the whole nation be sufficiently enlightened, and united in the same cause, which cannot fail of being the case wherever the most excellent works of Mr. Thomas Paine find residence. I am, gentlemen, your most respectful and sincere friend.—By order of the committee.

"SAMUEL ASHTON,
Secretary for this society."

This letter is proved by Mr. Woodfall to have some interlineations of the prisoner's hand, particularly the word "*country*," in two places instead of government, and in one place the words "*radical reform of*." So that, according to this state of the evidence, a paper which purports to be a letter from a Sheffield Society, to the secretary of the Constitutional Society, is found in the possession of that secretary, with alterations in the hand-writing of Mr. Horne Tooke. The observations which are made upon that seem to be these—either that Mr. Horne Tooke must have had some intercourse with the persons who wrote that letter, to be in privity with them; unless it should appear that Mr. Horne Tooke had made the alterations in the letter after it was received, now, with respect to that, there is no evidence offered, and therefore the inference, made on the part of the prosecution, so far remains unanswered.

They read, from the books of the Constitutional Society, an entry of the sixteenth of March, 1792, when Mr. Horne Tooke appears, by the entry, to have been in the chair—one Mr. Joel Barlow was made an honorary member. The rest of that entry will be read to you.

[*Vide* p. 134 of this Volume.]

I think it should be observed that this seems to be the most correct vote that I have met with among the proceedings of these popular societies. The society at Manchester approve of Paine's second part of the Rights of Man, and talk of carrying into practice the principles they approve of; but they confine their approbation to the specific objects, respecting which it might be not unreasonable to approve of Mr. Paine's work; and if that resolution had been followed by those other persons who have adopted and printed Mr. Paine's works, it certainly would not have been so much a subject complaint, as it is in in the present state of things. I think it a justice due, both to the prisoner and those who passed that resolution, to take notice in how guarded a way, separating the good from the bad, that resolution, respecting Mr. Paine's work, is expressed.

The next is a proceeding of the twenty-third of March, 1792, of the Constitutional Society, when Mr. Horne Tooke was present. There is a paper wafered to the book, containing the resolutions of the Sheffield Society, with Mr. Tooke's hand-writing upon it; and a resolution also, founded upon that resolution of the Sheffield Society, in Mr. Tooke's hand. They must be read.

[*Vide* p. 135 of this Volume.]

Gentlemen, the next piece of evidence was the entry of the proceedings upon the thirtieth of March, 1792, when Mr. Horne Tooke was present. There is a rough draft of the minutes of certain resolutions, transmitted from the secretary of the London Corresponding Society, to the secretary of the Constitutional Society, signed Thomas Hardy, and which signature, "Thomas Hardy," Mr. Woodfall states to be, in fact, Mr. Horne Tooke's hand-writing which shows that Mr. Horne Tooke must have had a great deal to do in forming these resolutions. That is the use that was made of that evidence, on the part of the prosecutor. You will hear these resolutions read.

[*Vide* p. 137 of this Volume.]

The next paper that was read, was found upon Adams, and is proved to be of Mr. Horne Tooke's hand-writing, purporting to be the draft of a letter from Adams to the Sheffield Society, signifying the election of the associated members. It does not seem to me that any thing very material arises upon that.

The next piece of evidence is a resolution of the Constitutional Society, on the twentieth of April, 1792, in which they thank the Southwark Society for a communication of their declaration; it is entered, and ordered to be published. You will hear that read, it is a material paper.

[*Vide* p. 139 of this Volume.]

Gentlemen, the observation that is made, on the part of the prosecution, upon this

paper, is, that it is expressed in terms which are extremely exceptionable; and that though it is expressed in these terms, this society ordered it to be published—the exceptionable terms are in the fourth and fifth resolutions—"That equal active citizenship is the unalienable right of all men—minors, criminals, and insane persons excepted;" and "That the exercise of that right, in appointing an adequate representative government, is the wisest device of human policy, and the only security of national freedom." Now, perhaps, it would be more than ought fairly to be inferred from this paper, that these persons did really mean by "a representative government," to express a government by the people independent of the constitutional part of the government, in the king and lords; to be sure it is expressed very unguardedly, and the observation upon it is, that a paper so expressed ought not to have been published in this manner, by a resolution of this society.

The next piece of evidence is the proceedings of the twenty-seventh of April, when Mr. Horne Tooke was present; and then a letter was sent to the Society of the Friends of the People, which produced afterwards an answer, written by the Society of the Friends of the People, and signed by lord John Russell. I believe it will be necessary that that letter, and the answer, should be read to you, because many observations have been made upon them, on the part of the prosecution, and some on the part of the prisoner.

[*Vide* pages 142 and 144 of this Volume.]

Gentlemen, I have directed this letter, and the answer to it, to be read to you, because observations were made upon them at the same time. I will tell you what occurs to me upon the letter and answer. It appears to me as if it was a pert letter, and was so considered by the Society of the Friends of the People, and that they returned a peevish answer; and perhaps that may really and truly be the whole effect of that correspondence. I observe that they allude in it to something respecting Mr. Paine's plan; that they do not expect to see his great plans speedily carried into execution. I do not observe that this is mentioned in the letter from the Society for Constitutional Information, but the fact seems to be that a sentiment of that kind was expressed in a letter from the Manchester Society, to the Constitutional Society, and the Constitutional Society did very improperly and very incautiously, publish a great many of these papers.—It seems to me as if the Society of the Friends of the People had taken that idea from some newspaper, and had quarrelled with the Constitutional Society upon that ground, and not improperly, because these publications are open to a great deal of observation. I think this is nearly the whole that results from these two letters.

The next piece of evidence, purported to be a letter from Norwich to the Constitutional Society, signed I. Broughton; that letter was found among Adams's papers. They state that they are happy to see the success of the Sheffield Society, and approve the delegations that have been made to form a plan of general information, and express a wish that all the societies, of a similar kind in England, were only as so many members, strongly and indissolubly united into one political body. That expression is worthy observation, because it is an expression to be found in many of the letters, and it seems to have been industriously infused into many of these societies; that the use that was to be made of them was, to unite these bodies of men into one body, for the purpose of effecting, by the strength of that union, what otherwise was, perhaps, not to be produced.—Whether this was meant to be effected by force, or by the general impression upon the public that a large body of men had a wish upon the subject, is another consideration; but this notion of union seems to have been very industriously circulated through the societies, and expressed more than once in this letter.

They go on to state that their society consists of some hundreds, and that they had appointed delegates; that new societies were frequently forming, which, by delegates, preserved a mutual intercourse with each other, for instruction and information. Then they speak of Mr. Burke—that is not very material. The fourth resolution is—"To Mr. Thomas Paine our thanks are especially due for his first and second part of the Rights of Man; and we sincerely wish that he may live to see his labours crowned with success, in the general diffusion of liberty and happiness among mankind." This therefore, you see, is an unqualified approbation of Paine's First and Second Parts of the Rights of Man. They go on then to take notice of some discovery supposed to be made, relative to the Westminster election, which you need not be troubled with. They conclude—"We congratulate our brethren in the various parts of the kingdom, on the progress of political knowledge; and earnestly entreat them to increase their associations, in order to form one grand and extensive union of all the friends of general liberty, and we hope the time is not far distant when the people of England will be equally and faithfully represented in parliament." The idea of forming this grand union, you see, is laboured, and is twice expressed in that single paper of resolutions. I should observe to you, that the date of that letter was the twenty-fourth of March; there is an alteration in it in Mr. Tooke's hand-writing; that alteration, perhaps, it may be proper for you to look at; it is an alteration from the twenty-fourth ultimo, to the twenty-fourth of March. I rather suppose that alteration was made after it came into the hands of Adams, and with a view only to accommodate it to the time when it was to be entered in their

book, and that it does not afford an observation as if Mr. Tooke had seen that letter, or corrected it before it was produced to the society; that does seem to me to be the effect of it, and that it is not to be carried farther; but if you have a mind to look at it, you will see how that is.

The next paper that was read was found among Adams's papers: it contains the names of persons who were elected members from the Norwich Society. The observation upon it is, that the descriptions, added to the names of these persons, are in the handwriting of Mr. Horne Tooke. There seems to be something else in the paper, and it is proper that paper should be read.

[*Vide* p. 148 of this Volume.]

The observation upon this letter is, that Mr. Horne Tooke has added to the names of the persons who were recommended to be associated members from the Norwich Society to this Constitutional Society, the description of their situations; and from thence, it is inferred, with a great deal of colour, that there must have been some private correspondence of Mr. Horne Tooke's, with Norwich, upon this subject, which should enable him to know the situation of those persons, and to be able to add these descriptions to the names; and with respect to the letter itself, it speaks of a combination which it seems desirous of increasing and promoting, which combination certainly is in itself sufficiently dangerous, and threatening, to the peace of the community at large, because, you see, it is manifestly calculated to extend itself without end, and to combine all those persons together to whom it extends, for any object, or for any purpose; if it is good, it is very well, but, if it is bad, it is exceedingly dangerous to the community.

The next piece of evidence is the proceedings of the Constitutional Society, on the fourth of May, 1792, in which a Mr. Martin is proposed as an honorary member, and in which these two last letters were read; the resolutions upon them should now be read.

[*Vide* pages 147, 148, 149, of this Volume.]

They then read a letter from Mr. Martin' the original letter was produced, which, by Mr. Woodfall, is proved to have an alteration in it in Mr. Tooke's hand-writing, instead of the words "learned men" in the letter, the words inserted by Mr. Tooke, as I understand are, "gentlemen so highly approved of by the public;" it does not seem to me that I need trouble you with hearing that letter read; the effect of it is, that Mr. Horne Tooke had a communication with Martin, and that he had something to do in the correcting the letter, which Martin wrote to this society: it does not seem to me to go farther.

The next piece of evidence is the proceedings of the society, upon the 11th of May, 1792, when Mr. Horne Tooke was present; and I believe it will be necessary, that these proceedings should be read: They respect an address which was at that time proposed to the society in France, called the Jacobins.

[*Vide* p. 150 of this Volume.]

On this address, as far as it respects the Jacobins at Paris, I shall not make any observation at present, because it does not belong to the present inquiry. The interfering of the subjects of one country, with respect to the government of another country, may be very improper, but it does not touch the present question; the parts which touch the present question, and which the prosecutor lays stress upon, are these; they first say, "It would have given an additional triumph to our congratulations, if the equal rights of men (which are the foundation of your declaration of rights) had been recognized by the governments around.

If this means, that they were to be received, and acted upon, within these governments, it is a very exceptionable idea, because these equal rights could not, in that sense be recognized by the governments around, without disturbing those governments extremely, particularly without disturbing the government of the country we live in: but, if it meant only, that other countries might have recognized them, as far as established in France, so that the tranquillity of France might not be disturbed, then there does not seem much reason to quarrel with it.

Another expression is more exceptionable, and leads to more observation. They say, "We now behold you a nation provoked into defence, and we can see no mode of defence equal to that of establishing the general freedom of Europe." If they meant by that expression, that the French were to defend themselves, by taking upon themselves to establish what this paper calls the general freedom of Europe all over Europe, by force, it is a most dangerous idea, and extremely reprehensible; whether that be the true sense of it you will judge. The other part of the paper goes to a co-operation with the committees of Southwark, London, and Westminster Societies, in the publication of the four resolutions contained in the declaration heretofore published by this society. Those, I apprehend are the declarations which were transmitted by the Southwark Society, approved and ordered to be published by this society. I observed upon a very unguarded expression in one of those declarations; instead of publishing it, prudent men ought to have suppressed it; that does certainly afford an observation on the part of the prosecution.

Gentlemen, I should be very glad, if by any exertions of mine, I could hope to get through this summing up to-night, but I see plainly, that the length of it would carry us beyond any reasonable hour, and that I have not strength to go through it. I believe, therefore, that it would be better now to adjourn; I

will meet you to-morrow morning, at nine o'clock.

It being now near nine o'clock at night, the Court adjourned to nine o'clock to-morrow morning.

Sessions-house in the Old Bailey.—Saturday, November the 22d.

PRESENT.

Lord Chief Justice Eyre; Lord Chief Baron Macdonald; Mr. Baron Hotham; Mr. Justice Grose; Mr. Justice Lawrence; and others his Majesty's Justices, &c.

John Horne Tooke set to the bar.

Lord Chief Justice *Eyre.*—Gentlemen of the Jury;—I left off last night with stating to you a proceeding of the Constitutional Society on the eleventh of May 1792, an addres to the Jacobins. The next piece of evidence was the proceeding upon the eighteenth of May 1792; this was a meeting at the Crown and Anchor, when Mr. Horne Tooke was present, and it was upon this day that they met for the first time at the Crown and Anchor, they had before held their meetings at the house of the secretary. The address that had been before proposed was read, and ordered to be published, and there was a letter from Mr. Paine respecting a cheap edition of his First and Second Parts of the Rights of Man. The proceedings at this meeting will be read to you.

[*Vide* p. 152 of this Volume.]

Maclean then identified a paper found at Adams's, which appears to be the minutes of these resolutions, and it is proved by the evidence of Mr. Woodfall, that there are corrections in the hand-writing of Mr. Tooke. Under the head of expenses of the society, there are charges for printing in the newspapers these resolutions, and also the resolution respecting the address to the Jacobins.

On the twenty-fifth of May there was another meeting at the Crown and Anchor, when Mr. Horne Tooke was present, and it appears that at that meeting six thousand copies of the bills, as they are called, which had been directed at the last meeting, were ordered to be printed. There is a direction for the distribution of them among the different societies with whom this society corresponded; it appeared by the account-book that twelve guineas were charged for printing this letter of Mr. Paine's and the address to the Jacobins; there are charges for the conveyance by the coaches of these when printed to Norwich, Glasgow, and other places, and also for inserting them in the newspapers.

Upon the first of June 1792, there was another meeting, when Mr. Horne Tooke was present. The secretary reported that he had sent the different copies of the bills that were ordered by the last meeting to be printed, according to the directions that he had received, they amount to a pretty large number, and then there are three thousand more ordered to be printed; and to be distributed to particular places. There was a letter from the Corresponding Society, of the thirty-first of May, read, which was ordered to be published in such of the news-papers as would receive the advertisement of the society, and there is a charge for that publication. I do not believe that any thing particular arises upon that letter, if any of the counsel will tell me that there does it shall be read, otherwise I think that may be passed over. There are charges also in the account-book for transmitting to Norwich and other places a paper with some of the king's proclamations, which were issued about that time.

Upon the eighth of June 1792, there was a meeting of this society, when an open committee was appointed, who were to meet, and to take into consideration Mr. Paine's letter, with power to transmit copies of that letter to the different societies with whom they corresponded. Six thousand copies of the resolutions relative to the proclamation were ordered to be printed, and sent to the different Corresponding Societies.

The proceedings of the twenty-fifth of May were not read in the place in which they should have been read, because the resolutions which made the subject of some of these meetings that I have been now stating to you, were then come to; these resolutions must be read.

[*Vide* p. 158 of this Volume.]

Gentlemen, the next evidence was the proceedings of a meeting on the fifteenth of June 1792, when Mr. Tooke was in the chair. The original minutes of the resolution of that meeting were found upon Adams, and proved by Mr. Woodfall to be in Mr. Horne Tooke's hand-writing. The principal resolution respects the publication of twelve thousand copies of Paine's letter to Mr. Dundas, which are directed to be transmitted to the different societies. You will hear these minutes read.

[*Vide* p. 159 of this Volume.]

Mr. Adams was then called, in order to substantiate the book of expenditure which he had, and he also substantiated some other proceedings that had been read in his absence from the general book of the society, to which he had not been before examined.

The next piece of evidence was the proceedings at a meeting of the Constitutional society upon the twenty-second of June 1792, when there were directions that a subscription, opened for Mr. Paine, who was under prosecution, was to be received by Mr. Bonney, his solicitor; and there is a report of an estimate of the expense of printing the twelve thousand copies of Mr. Paine's letter to Mr. Dundas, which had been ordered at the last meet-

ing; that estimate amounted to twenty-five pounds, that was agreed to, and then there was a direction that the committee were to meet to consider how these twelve-thousand copies were to be circulated. They call Mr. Chapman and Mr. Jordan in order to prove those works that had been thus ordered to be printed. Chapman said he printed a part of the second part of the Rights of Man, up to folio 128, and then broke off; Jordan said, that Mr. White the solicitor for the Treasury, came to him; but he could not take upon himself to recollect whether he had given Mr. White the copy of this work which was now produced; he said he had certainly written his name upon it, but he did not think that this particular copy produced, was published by him; however, upon farther pressing him, it appeared that, in truth he had had that copy which he supposed to be delivered by him to Mr. White, from one Mr. Huntley, the memorandum he had made upon it was that it had been bought of Mr. Johnson through Mr. Huntley; he said he supposed that as his name was to this work, as the publisher, Mr. Johnson would not have sold a book with his name to it; that he had published copies of the same work for Mr. Paine; and had an account with Mr. Paine.

He said, that after the suit was instituted against him, on account of this publication, he went to Mr. Horne Tooke according to a letter he had received from Mr. Paine, expecting to meet Mr. Paine there; and he did accordingly meet him; that Mr. Tooke also was there; and Mr. Tooke entered into a dispute with him about his being timid, and doubtful of leaving the action, as he called it, in the care of Mr. Bonney; that Mr. Bonney was present; and that Mr. King, as Jordan's attorney, was also present; he was fearful, and did not choose to go without him. Mr. Horne Tooke said, Mr. Paine had employed Bonney; and that the witness might leave the business entirely to him, and go quietly home. He was then shown another copy, which he said did seem to him to be one of the same copies that he published. Upon this evidence the book was thought to be sufficiently established in evidence: and it was accordingly delivered in at the table: and parts of it were read; and those parts must now be read again

[See the extracts from the Second Part of the Rights of Man, *ante*, Vol. 24 p. 500.]

Mr. Horne Tooke desired that the preface might be read.

Mr. *Tooke*.—I do not desire it now.

Lord Chief Justice *Eyre*.—The object of reading the preface, as I take it, was to show that it was written in consequence of Mr. Burke having made some publication, which provoked Mr. Paine to give this answer.*

The observations upon this paper, and upon the resolutions of this Society, on the part of the prosecution, are, that this work of Mr. Paine's being a direct attack upon the monarchy of England, and upon the constitution of the government of England, in a King, Lords and Commons; and he being under prosecution for publishing this work, this society take upon themselves to subscribe for his defence; and to come to resolutions, that it was fit for them to do so; and to come to a particular resolution, which goes a good way towards expressing an approbation of the doctrine. The resolution that I allude to is, "Resolved, That the right of investigating principles and systems of government, is one of those rights; and that the works of any author, which cannot be refuted by reason, cannot on principles of good government, and common sense, be made the subject of a prosecution;" whether that is the fair import of that resolution, or no, is for your judgment; that is the way in which it is put to you, on the part of the prosecution.

Gentlemen, the next piece of evidence is the proceedings of this society, upon the twenty-ninth of June, 1792, when Mr. Horne Tooke was present. There was then a plan reported for the distribution of the six thousand copies, which had been ordered of the resolutions relative to the proclamation. I think they were those six thousand copies, and they state a distribution that amounts, I believe to the full number I calculated it to, four thousand seven hundred and fifty; and there were some others afterwards. At a meeting, on the sixth of July, 1792, Mr. Horne Tooke was present. The Corresponding Society return their thanks for two hundred copies that had been sent to them, under the former order.

Mr. Maclean then produced a letter found upon Adams, from the London Corresponding Society to this society, in which he speaks of having received two hundred copies of the proclamation, as it is called—two hundred copies of Paine's letter—that is the letter upon the subject of his cheap edition of the Rights of Man, and being prosecuted—and two hundred copies of his letter to Mr. Dundas; and they promised, that having received six hundred copies, they will take care that they shall be so communicated, that six thousand people at least, should have an opportunity of reading them. At this meeting thanks were returned by the London Corresponding Society, to the Constitutional Society, for agreeing to admit six of their members, as honorary members of the Constitutional Society, and their names were forwarded to the Constitutional Society. Hardy and Margarot were two of those six persons. There was a resolution that those persons should be ballotted for at the next meeting.

Mr. Lauzun produced a paper found at the house of Hardy, which purports to be this letter to Mr. Dundas; and upon the title page it is said to be "printed and distributed gratis by the Society for Constitutional Infor-

* *See the Preface, ante*, Vol. 24, p. 503.

tion," There were passages read from that letter, and they will be now read to you.

[*Vide* p. 167 of this Volume.]

Gentlemen, They then read the proceedings at a meeting of the Constitutional Society on the thirteenth of July 1792, when Mr. Tooke was present. I find nothing respecting that meeting, but that they ballotted six members of the Corresponding Society, and that they were unanimously elected.

Thornton then produced a paper, found at Mr. Horne Tooke's house, purporting to be a letter from Thomas Hardy, dated the twenty-fourth of July, 1792, speaking of the progress which the Society had made, and that they were now got as far as the eleventh and twelfth divisions. I am not aware, that any thing very particular arises upon that piece of evidence.

Thompson then produced a paper found in Mr. Horne Tooke's house, dated the eighth of August 1792, purporting to be a letter from Thomas Hardy to Mr. Tooke, in which he sends him a proof copy of the Address of the London Corresponding Society; that is, I suppose, the address of the sixth of August: he asks Mr. Tooke's opinion upon, it, before it was published, and also asks, whether it was proper that a copy of it should be sent to the secretary of the Constitutional Society, next week, as that society were not to meet till the last Friday in September.

This witness was asked, by Mr. Tooke, several questions about the manner of finding these papers: the account he gave was, that he and another person searched for the paper; that there was a Mr. Ford present to superintend the search and the examination: and that a Mr. Frost and a Mr. Vaughan, who were friends of Mr. Tooke, were also present; and he believes that there were lists taken by the friends of Mr. Tooke, of all the papers that were taken upon that examination.

Thornton then produced another letter, found at Mr. Tooke's house, dated the fifteenth of September, 1792, which purports to be addressed to Mr. Horne Tooke, and to be written to him by Mr. Margarot; it is in these words, "M. Margarot wishes to submit to Mr. Horne Tooke's consideration, whether a plan might not be adopted for obtaining the assent of all the different societies throughout the nation, to a united and safe declaration, assuring the French, that we entertain the most friendly dispositions towards them; and that we will, to the utmost of our power, discountenance all hostile attempts on the part of ministry, should the latter be base enough to forfeit the nation's pledged faith of neutrality. M. M. conceives such a measure will prove more useful than a partial, and, perhaps, comparatively speaking, inconsiderable subscription, which, however, would be no ways impeded thereby. A similar declaration would certainly quiet their jealousies, with regard to the English, and would encourage them in their arduous struggle, while numbers of well wishers to their cause, who might come forward here with only their signatures to the declaration, would give a most severe check to all open, or even underhanded ministerial attempts."

Thornton then produced another paper, dated the sixteenth of September, 1792, purporting to be a letter from Hardy to Mr. Horne Tooke, in which he says, "Mr. Margarot would be glad to know your opinion of the proposition he has submitted to your judgment. I think, with him, it would have a good effect; at the same time, the subscription to go on as it now does, ten or twenty thousand signatures would have more weight than as many thousand pounds, for ten men might subscribe that sum."

Then they read the proceedings of the twenty-eighth of September, Mr. Horne Tooke being present, when a letter was received from the secretary to the London Corresponding Society, proposing this measure of an address; and there is an expression in it which exactly corresponds with Mr. Margarot's letter, which speaks of the ministry doing any thing in violation of the nation's pledged faith, and proposes the measure as tending to check hostile measures; that letter of Mr. Hardy's to the secretary of the Constitutional Society must be read.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 28th of September, 1792,

"PRESENT,

"Mr. William Sharp in the chair;

"Mr. J. H. Tooke, Mr. Symonds, Mr. Walsh, Mr. Bonney, Mr. Merry, Mr. Jennings, Mr. John Martin, Mr. Williams, Mr. Sturch, Mr. Moore, captain Perry, Mr. Rickman, Mr. Geddes, Mr. Hardy, Mr. Gow, Mr. Margarot, Mr. Sinclair, Mr. Balmanno.

"Read the following letter from the secretary of the London Corresponding Society:—

"To D. Adams, secretary to the Society for Constitutional Information.

"Sir;—The London Corresponding Society having taken the resolution of transmitting to the French National Convention, an addresss, signed by all the members, or by the different delegates (each stating for how many members he signs), to assure that suffering nation, that we sympathise with them in their misfortunes; that we view their exertions with admiration; that we wish to give them all such countenance and support as individuals, unsupported and oppressed themselves, can afford; and that should those in power here—dare (in violation of the nation's

pledged faith of neutrality, and in opposition to the well-known sentiments of the people at large) to join the German bands of despots, united against liberty, we disclaim all concurrence therein; and will, to a man, exert every justifiable means for counteracting their machinations against the freedom and happiness of mankind.

"I am ordered by the committee to acquaint the Society for Constitutional Information therewith, in order to be favoured with their opinion thereon, and in hopes that, if they approve the idea, and recommend its adoption to the different societies, the publication of such a respectable number of real names will greatly check the hostile measures which might otherwise be put in execution. I am, with great respect, dear sir, your very humble servant,

(Signed) THOMAS HARDY, secretary.

"London, Sept. 21, 1792,—No. 9, Piccadilly, near the top of the Haymarket."

"Resolved, that the secretary express the thanks of the society to the London Corresponding Society for their communication, and acquaint them this society do very highly approve of their intention.

"Ordered, That the said letter be read at the next meeting, for the purpose of considering of publishing the same."

They then read the proceedings of the fifth of October, 1792, when the letter from the London Corresponding Society, and the resolutions, were ordered to be published.

Lauzun then produced a paper, found at Hardy's, dated the third of October; it purports to be a letter from Adams to Hardy, notifying that resolution: he also produced another paper of the sixth of August, 1792; that should have been read in its proper place, immediately after the resolution of the eighth of August, which was before read. It purports to be an address from the London Corresponding Society to the people of England; it is pretty long; the passages that were relied upon will be read.

"Address from the London Corresponding Society, to the Inhabitants of Great Britain, on the subject of a Parliamentary Reform.

"Fellow Citizens;—Of every rank and of every situation in life, rich, poor, high or low; we address you all as our brethren, on a subject of the highest importance, and most intimately connected with the welfare of every individual who deems liberty a blessing, who partakes in the prosperity of his country, and who wishes to transmit as much of either as he possibly can, to posterity.

"Uninfluenced by party pique or selfish motives—no ways affrighted at the frowns of power—not in the least awed by the evidently hostile preparations of a much alarmed aristocracy, we, the *London Corresponding Society*, united with a view of obtaining a THOROUGH PARLIAMENTARY REFORM, anxiously demand your serious and most collected attention to the present VITIATED state of the British government, we entreat you to examine coolly and impartially the numerous abuses that prevail therein, their destructive consequences on the poor, and their evil tendency on all; as also the rapidity with which these abuses increase both in number and magnitude.

"We next submit to your examination an effectual mode of putting a stop to them and of thereby restoring to our no less boasted than impaired constitution, its pristine vigour and purity: and we thereunto warmly solicit the junction of your efforts with ours.

"This great end however we believe attainable, solely, by the whole nation, deeply impressed with a sense of its wrongs, uniting, and as it were with one voice demanding of those to whom for a while it has entrusted its sovereignty, a restoration of, ANNUALLY ELECTED PARLIAMENTS, UNBIASSED AND UNBOUGHT ELECTIONS, AND AN EQUAL REPRESENTATION OF THE WHOLE BODY OF THE PEOPLE.

"Leaving to the enemies of freedom all violent, tumultuous, and unconstitutional proceedings, we invite you to peaceful, well-regulated, and neighbourly meetings, wherein industrious worthy citizens may as honest men, as good patriots, in a reasonable and sensible manner, laying aside prejudice, seriously and earnestly take into consideration their rights, and the welfare of the present and succeeding generations.

"As men can never barter away the rights of their posterity—as encroachments on liberty and property cease not to be grievances from their being customary and of long standing—and as a grievance is not the less felt for being denied by those who cause it—feeling grievances enormous—seeing our liberties encroached upon and endeavoured to be entirely purloined from us—as also that our plaints are derided by government, and ourselves unlawfully menaced by those in power, we call upon you all, Britons, to remember your privileges as such, and to assert your rights as men—to pay all proper regard to your native freedom; and to consider that, being the property of no man, nor of any set of men, it is highly disgraceful for you to suffer yourselves any longer to be thus enslaved and disposed of as cattle in a fair, as irrational beasts in a market, to the highest bidder.

"Laying aside all pretensions to originality, we claim no other merit than that of re-considering and verifying what already been urged in our common
by the duke of Richmond, Mr. P
their then honest party, years bac

differing from them, we support with candour and zeal (thereby proving ourselves no courtiers) the banner of truth already displayed against the oppressors of mankind, and we take a pride in acknowledging ourselves a part of that useful class of citizens which placemen (pensioned with the extorted produce of our daily labour) and proud nobility wallowing in riches (acquired somehow) affect to treat with a contempt too degrading for human nature to bear, unless reconciled to it by the reflection, that, though, their inferiors in rank and fortune, we equal them in talents, and excel them in honesty.

"Still, friends and fellow-citizens, possessed of souls far superior to the evil spirit influencing these oppressors, these debasers of mankind; instead of hating, we contemn them; and our motive is not vengeance, but redress.

"A constitution we are said to possess, we are willing to believe it—if good, it allows redress to a complaining people—if excellent, as many assert, it must naturally point out the means thereof. Let it therefore be publicly and carefully examined—if it is really what it ought to be; it cannot be too well known; if faulty, it cannot be too soon amended; nor can that be done by a more competent judge than the thus collected sense of the whole nation.

"It is the right of every individual to be well acquainted with the laws that bind him! but how is the peasant, the mechanic the manufacturer, to obtain that necessary knowledge; his time fully employed in labouring hard to provide a scanty meal for his family, and in earning wherewith to satisfy the frequent and peremptory demands of surly tax-gatherers, he has no leisure for such intricate political researches; and even was he, by stealing that leisure from his labour or his sleep, to acquire the desired insight—still with spirits depressed by his suffering, with fears increased by the clamorous threats of the pensioned all-devouring locusts in office, the sore-oppressed subject feels the remedy to be far out of his reach, and dreads the consequence of being even supposed to know how greatly he is wronged.—Such being the forlorn situation of three-fourths of the nation, how are Britons to obtain information and redress? Will the court, will ministry, afford either? Will parliament grant them? Will the nobles or the clergy ease the people's suffering? No. Experience tells us, and proclamations confirm it, that the interest and the intention of power are combined to keep the nation in torpid ignorance!

"The only resource then, friends and fellow citizens, will be found in those societies which instituted with a view to the public good, promote a general instruction of our rights as men, expose the abuses of those in power, and point out the only constitutional, the only effectual means of forwarding a public investigation, and obtaining a complete redress for a people in whose credulous good nature originated their present difficulties.

"We will not hurt your feelings by a minute detail of our common grievances; you cannot be ignorant, friends and fellow-sufferers, how generally power, place, pension and title, are the rewards of men whose services to the court have been of the greatest prejudice to the country. You painfully feel the consequences; increased taxes, a great part of which are most vilely squandered; a heavy national debt, begun with a design of forming a powerful and monied court-party: continued with nearly the same view, unto its present enormous bulk, and from its commencement militating against our liberties! Too visible are the numerous encroachments on our rights too common the insolence of office, the venality of magistracy, the perversion of the laws, the letting loose the military on every occasion, and those occasions eagerly sought. The subject's complaints derided —the one part of the nation turned into spies and informers against the other—the —but wherefore more? Is here not enough to prove beyond a doubt, that while we boast the best constitution, the mildest laws, the freest government, we are in fact slaves!

"Yet, fellow-citizens! numerous as are our grievances, and close-rivetted as weighty to the shackles on our freedom; reform one alone, and the others will all disappear. If we once regain an annually elected parliament, and that parliament to be fairly chosen by all, the people will again share in the government of their country, and their then unbought, unbiassed suffrages must undoubtedly select a majority of honest members, while the very few unsound ones, that may accidentally obtain seats, will, from the consideration of their annual dependance on the people, think it highly advisable to continue the disguise that procured them their election, and at least wear the mask of honesty—a mask neither at all times necessary, nor at all times worn, in a septennial parliament.

"Let no man imagine himself unconcerned in the proposed reform—let no one think so meanly of his situation or abilities as to suppose his coming forward will be of no service to the cause of liberty! numbers, union, and perseverance must in the end be crowned with success, while compared with the small efforts of each individual associating and thereby countenancing the demand of the nation to be restored to its constitutional rights! how great will appear the advantages resulting therefrom!—

"An HONEST PARLIAMENT!

"An ANNUAL PARLIAMENT!

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"A PARLIAMENT WHEREIN EACH INDIVIDUAL WILL HAVE HIS REPRESENTATIVE.

"Soon then should we see our liberties restored, the press free, the laws simplified, judges unbiassed, juries independent, needless places and pensions retrenched, immoderate salaries reduced, the public better served, taxes diminished, and the necessaries of life more within the reach of the poor, youth better educated, prisons less crowded, old age better provided for, and sumptuous feasts, at the expense of the starving poor, less frequent. Look not upon this, dear countrymen, as an enthusiastic vision; but rather let us together take a calm an reasonable review of such an honest parliament assembled—let us in idea, curtail their session unto even the short duration of three months in one year, or sixty-four meetings for doing the annual business of the nation. Still five hundred honest men, meeting sixty-four times, with both intention and capacity to serve their country, must do *something*—must employ their time somehow. Contested elections, none or very few, and soon determined; party debates, none, the interest of the people being one; long speeches much diminished, honest men seeking reason, not oratory; no placemen in the senate, corrupt influence dies away, and with it all tedious, obstinate, ministerial opposition to measures calculated for the public good: detesting chicanery, oppression and injustice of every kind, this honest parliament, finding that the laws wanted simplification and arrangement, would set about it, however destructive their labours might prove to the sordid interest of an ambitious judge, a prostituted council, a packed jury, or a vile herd of pettyfoggers, trading justices, bailiffs, or runners.

"Finding that a most extraordinary waste of public money had taken place under the different pretences of places, pensions, contracts, armaments, subsidies, secret service money, &c. our honest and annual parliament would, after narrowly scrutinizing the same, retrench every sum, needlessly or wickedly laid out.

"Recalling to their mind that wise and wholesome provision of the 12th of William 3rd, chap. 2, enacting, that *all resolutions taken in the privy council shall be signed by such of the privy council as shall advise and consent to the same;* they would call for an immediate renewal of that long-suspended law, and by so doing, all destructive secret influence will be rooted up, and the people could then, at all times, discover who were their friends, and who their foes.

"The people's parliament finding, that under various pretences grants of common land had been obtained by sundry persons, no ways to the benefit of the community, but very much to the distress of the poor, the same would be soon restored to the public, and the robbed peasant again enabled annually to supply his distressed family with an increased quantity of bread out of the profit arising from the liberty regained of grazing a cow, two or three sheep, or a brood of geese thereon.

"With detestation would that parliament view any man enjoying the emoluments of six or seven places, either needless and overpaid, as requiring altogether but one officer, or else their several duties neglected, and the public thereby deprived of that service for which they pay their money.

"Numerous other reforms would undoubtedly take place, even in the first session of parliament so elected dependent only on their electors the people. Untorn therefore by faction, undivided by party, uncorrupted by ministry, and uninfluenced but by the public good, every transaction would tend to reform, and a strict economy, its natural consequence, might soon enable us to reduce our taxes; and by the integrity of parliament, that reduction would light upon such objects as best might relieve the poor. This to the people would prove an advantageous and a novel session, and to an honest parliament not a tiresome one.

"Therefore Britons, friends, and fellow-citizens, with hand and heart unite, claim what is your right, persevere and be free; for who shall dare to withstand our just demands!—oppression already trembling at the voice of individuals, will shrink away and disappear for ever, when the nation united shall assert its privileges, and demand their restoration.—Signed by order,

"M. MARGAROT, chairman.
"T. HARDY, secretary."

"Ordered, that the secretary of this society, do transmit copies of the above to all the societies in the nation, engaged in the same cause.

"London, August 6, 1792."

Gentlemen, this paper has been read to you; and I hope you have attended to it particularly; because great stress was laid upon it, on the part of the prosecution, as if we might discern in that paper the first traces of this idea of a national convention, which should usurp the government of the country. I discover in it something very inflammatory, licentious, and libellous upon all the orders in the state, and upon every person who has any thing do with the executive government; but I cannot say myself, that I do discover any distinct traces of a national convention; the contrary idea is held out in the terms of it; and it does seem to me as if, taking the whole context together, it would be difficult to collect more from it, than t

eager, animated, and exceptionable language, they proclaim to the world, that grievances exist; and that they are determined to procure a reform of those grievances, by procuring a better representation of the people in parliament; and that better representation of the people in parliament, in fair interpretation, would be in the Commons House of Parliament; and in that view of it, however exceptionable it may be, and very exceptionable it is in its language, still that distinct idea could hardly be collected from it. You will judge, and you are the proper judges, whether there can fairly be collected from that letter more than I have stated to you: it is important you should attend to it, because stress was laid upon it; and the true construction of it may be that which is insisted upon, on the part of the prosecution; but of that you will judge.

The next piece of evidence that was read was the proceedings of the twelfth of October, 1792, of the Constitutional Society, when Mr. Horne Tooke was present. At this meeting there was a letter read from the London Corresponding Society, with an address inclosed, to the National Convention of France, and they desire the advice of the Constitutional Society, as to the manner of conveying and presenting that address.

Maclean then produced the original letter, and the address of the society, to the National Convention of France. The Constitutional Society resolve to thank them for the communication, and they approve of the spirit of the address; that address is a very important piece of evidence; you will hear it read.

"Read, The following letter, and inclosed address to the National Convention of France, from the London Corresponding Society.

"To D. Adams, secretary to the Society for Constitutional Information.

"Sir;—Your favour of the third instant, informing us, that our proposal for addressing the French National Convention, had met with the approbation of the Society for Constitutional Information, we have inclosed you a copy of the address we have drawn up, and mean to send, the society at large having approved of it.

"Not in the least presuming to propose it for the adoption of your society, ourselves will joyfully throw it aside and as readily subscribe to any production of your's, better calculated to answer the purpose, and less unworthy being presented to so august an assembly.

"Should no other be produced, we imagine this plain, but honest address, will be adopted by some other societies, in concurrence with our own; and respecting the manner of signing, of conveying, and of presenting it, your better experienced advice will greatly oblige, gentlemen, your very humble servants, for the committee of the London Corresponding Society.

(Signed)

"Maurice Margarot, chairman.

"Thomas Hardy, secretary."

"Thursday, 11th October, 1792."

"Frenchmen!—While foreign robbers are ravaging your territories, under the specious pretext of justice; cruelty and desolation leading on their van, perfidy with treachery bringing up their rear, yet mercy and friendship impudently held forth to the world as the sole motives of their incursions, the oppressed part of mankind forgetting, for awhile, their own sufferings, feel only for yours, and with an anxious eye watch the event, fervently supplicating the Almighty Ruler of the Universe to be favourable to your cause, so intimately blended with their own.

"Frowned upon by an oppressive system of control, whose gradual, but continued encroachments, have deprived this nation of nearly all its boasted liberty, and brought us almost to that abject state of slavery, from which you have so emerged, 5,000 British citizens, indignant, manfully step forth to rescue their country from the opprobrium brought upon it, by the supine conduct of those in power. They conceive it to be the duty of Britons to countenance and assist, to the utmost of their power, the champions of human happiness, and to swear to a nation, proceeding on the plan you have adopted, an inviolable friendship. Sacred from this day be that friendship between us! And may vengeance to the uttermost overtake the man who hereafter shall attempt to cause a rupture.

"Though we appear so few at present, be assured, Frenchmen, that our number increases daily; it is true, that the stern uplifted arm of authority at present keeps back the timid, that busily circulated impostors hourly mislead the credulous, and that court intimacy, with avowed French traitors, has some effect on the unwary, and on the ambitious. But, with certainty, we can inform you, friends and freemen, that information makes a rapid progress among us. Curiosity has taken possession of the public mind; the conjoint reign of ignorance and despotism passes away. Men now ask each other, what is freedom? what are our rights? Frenchmen, you are already free, and Britons are preparing to become so!

"Casting far from us the criminal prejudices artfully inculcated by evil-minded men, and wily courtiers; we, instead of natural enemies, at length discover in Frenchmen, our fellow citizens of the world, and our brethren by the same Heavenly Father, who created us for the purpose of loving and mutually assisting each other: but not to hate, and to be ever ready to

cut each others throats, at the command of weak or ambitious kings, and corrupt ministers.

"Seeking our real enemies, we find them in our bosoms; we feel ourselves inwardly torn by, and ever the victims of a restless, all-consuming aristocracy, hitherto the bane of every nation under the sun! Wisely have you acted in expelling it from France.

"Warm as are our wishes for your success, eager as we are to behold freedom triumphant, and man every where restored to the enjoyment of his just rights, a sense of our duty, as orderly citizens, forbids our flying in arms to your assistance; our government has pledged the national faith to remain neutral:—in a struggle of liberty against despotism, Britons remain neutral! O shame! But we have entrusted our king with discretionary powers;—we therefore must obey;—our hands are bound, but our hearts are free, and they are with you.

"Let German despots act as they please. We shall rejoice at their fall, compassionating however their enslaved subjects. We hope this tyranny of their masters will prove the means of reinstating, in the full enjoyment of their rights and liberties, millions of our fellow-creatures.

"With unconcern, therefore, we view the elector of Hanover, join his troops to traitors and robbers; but the king of Great Britain will do well to remember, that this country is not Hanover.—Should he forget this distinction, we will not.

"While you enjoy the envied glory of being the unaided defenders of freedom, we fondly anticipate, in idea, the numerous blessings mankind will enjoy, if you succeed, as we ardently wish, the triple alliance (not of crowns, but) of the people of America, France, and Britain, will give freedom to Europe, and peace to the whole world. Dear friends, you combat for the advantage of the human race. How well purchased will be, though at the expense of much blood, the glorious, the unprecedented privilege of saying, mankind is free! Tyrants and tyranny are no more! Peace reigns on the earth! And this is the work of Frenchmen.

"Resolved;—That the thanks of this society be given to the London Corresponding Society, for the above address transmitted by them; and that the secretary acquaint them, this society do highly approve of the spirit of the same."

Gentlemen, the whole of this paper deserves very attentive consideration indeed; for you here find an appeal to a foreign country, and those who make the address, take upon themselves to consider the interests of our country as intimately blended with the interests of that country, in the state in which that country was at that time, which leads to very serious observations.—It speaks of the lawful controle in this country as oppressive and burthensome to the people of this country. It speaks of Frenchmen becoming free, and of Britons preparing to become so. It speaks of the aristocracy of the country with a pretty plain allusion to one of the orders of the state, in these terms—"Seeking our real enemies, we find them in our bosoms—we feel ourselves inwardly torn by, and ever the victims of, a restless and all-consuming aristocracy:" It asserts, that an aristocracy is the bane of every nation under the sun; and it declares that France has done wisely in expelling an aristocracy. It alludes more guardedly to the king, but there is an allusion, and a dangerous one—"the king of Great Britain will do well to remember that this country is not Hanover; should he forget this distinction, we will not." It speaks of the event of the success of the French contest in very extraordinary terms—"If you succeed, as we ardently wish, the triple alliance not of crowns but of the people of America, France, and Britain will give freedom to Europe, and peace to the whole world;" which is going a good way towards saying, that the effect of the success of the contest in France will be to produce an alliance of the nations of France and England, independent of a crown, and without a crown. How far these observations are just in themselves, and how far they lead to open the views of those who presented this address, is matter of general observation, for your consideration upon the whole of the evidence taken together; but I thought it necessary to point out to you the particular passages, which must certainly strike one upon reading that paper. I shall have occasion hereafter to observe a little more particularly upon it.

They then read the proceeding of the nineteenth of October, when Mr. Horne Tooke was in the chair; there was a committee appointed to confer with the delegates of the London Corresponding Society, on the address which that society had presented to the National Convention of France.

Upon the twenty-sixth of October, Mr. Horne Tooke being present, the report of the committee appointed at the last meeting was recommitted; and it was resolved, that at the next meeting they would consider of an answer to the London Corresponding Society, upon the subject of their letter, and that they would also consider of an address to the National Convention of France.

Upon the second of November 1792, at a meeting of the Constitutional Society, Mr. Tooke being present, a committee was appointed to prepare an address, but Mr. Tooke was not of that committee.

Upon the ninth of November 1792, Mr. Tooke being present, the address was produced, and was read: Mr. Barlow and Mr. Frost being present, were desired to present this address, and were thanked for having accepted

this trust. The proceedings were signed by the chairman, lord Sempill. That address must be read.

"The Committee appointed at the last meeting to prepare an address from this society to the National Convention of France made their report, and produced the following address which was read and approved:

"The Society for Constitutional Information in London, to the National Convention of France.

"Servants of a Sovereign People, and Benefactors of Mankind;—We rejoice that your revolution has arrived at that point of perfection which will permit us to address you by this title; it is the only one that can accord with the character of true legislators. Every successive epoch in your affairs, has added something to the triumphs of liberty, and the glorious victory of the 10th of August, has finally prepared the way for a constitution, which we trust you will establish on the basis of reason and nature.

"Considering the mass of delusion accumulated on mankind, to obscure their understandings, you cannot be astonished at the opposition you have met both from tyrants and from slaves.—The instrument used against you by each of these classes is the same; for in the genealogy of human miseries, ignorance is at once the parent of oppression, and the child of submission.

"The events of every day are proving that your cause is cherished by the people in all your continental vicinity; that a majority of each of those nations are your real friends, whose governments have tutored them into apparent foes, and that they only wait to be delivered by your arms from the dreaded necessity of fighting against them.

"The condition of Englishmen is less to be deplored—here the hand of oppression has not yet ventured completely to ravish the pen from us, nor openly to point the sword at you. From bosoms burning with ardour in your cause, we tender you our warmest wishes for the full extent of its progress and success. It is indeed a sacred cause; we cherish it as the pledge of your happiness, our natural and nearest friends; and we rely upon it as the bond of fraternal union to the human race, in which union our own nation will surely be one of the first to concur.

"Our government has still the power and perhaps the inclination, to employ hirelings to contradict us; but it is our real opinion, that we now speak the sentiments of a great majority of the English nation.—The people here are wearied with imposture, and wore out with war; they have learned to reflect, that both the one and the other are the offspring of unnatural combinations in society as relative to systems of government, not the result of the natural temper of nations, as relative to each others happiness.

"Go on, legislators, in the work of human happiness—the benefits will in part be ours, but the glory shall be all your own. It is the reward of your perseverance, it is the prize of virtue. The sparks of liberty preserved in England for ages, like the coruscations of the northern aurora, served but to show the darkness visible in the rest of Europe. The lustre of the American Republic like an effulgent morning, rose with increasing vigour, but still too distant to enlighten our hemisphere, till the splendour of the French revolution burst forth upon the nations, in the full fervour of a meridian sun, and displayed in the midst of the European world, the practical result of principles which philosophy had sought in the shade of speculation, and which experience must every where confirm. It dispels the clouds of prejudice from all people, reveals the secrets of all despotism, and creates a new character in man.

"In this career of improvement, your example will be soon followed; for nations rising from their lethargy, will reclaim the rights of man, with a voice which man cannot resist.

"(Signed by order of the Society)
"Sempill chairman.
"D. Adams, secretary.

"Resolved, That the thanks of this society be given to the committee who prepared the above address.

"Resolved, That Mr. Barlow and Mr. Frost be deputed by this society to present the address of this society at the bar of the National Convention of France.

"Resolved, That the thanks of this society be given to Mr. Barlow and Mr. Frost for accepting the above deputation.

"Resolved, That the said address be signed by the chairman and secretary.

"Resolved, that a subscription be opened in this society, for the purpose of assisting the efforts of France i the cause of freedom."

Gentlemen, this paper was also very much relied upon, but I do not think it so easy to point out the particular passages from whence strong observations will arise. They speak of the glorious tenth of August:—as to the tenth of August, and what appellation it deserved, as applied to the affairs of France, we have nothing to do with; and there is no direct application of it to any consequences that were to follow here. There is a good deal of acrimony expressed as to the state of this country; but a great deal of observation, with respect to the effect that the revolution of France was to have upon this country, hardly arises upon that expression of acrimony. The concluding part is the most material, and has the most direct reference to such an effect; it is in these words—"The lustre of the

American Republic, like an effulgent morning, arose with increasing vigour, but still too distant to enlighten our hemisphere, till the splendour of the French Revolution burst forth upon the nations in the full fervour of a meridian sun, and displayed, in the midst of the European world, the practical result of principles which philosophy had sought in the shade of speculation, and which experience must every where confirm." This is, certainly a general approbation of the practical result of principles which had produced a revolution in France, and which this address supposes that experience would confirm every where as well as in France. It speaks of dispelling the clouds of prejudice from all people, revealing the secrets of all despotism, and creating a new character in man. These are expressions certainly large enough to comprehend their own country as well as any other country in the neighbourhood of France. It goes on to say—"In this career of improvement, your example will be soon followed,"—Followed by whom?—"for nations rising from their lethargy, will reclaim the rights of man with a voice which man cannot resist." That, you see, is general—going to all nations; and if it has any reference to this nation among others, to be sure it is a paper that deserves very serious attention, considered as a declaration of principles upon which the fate of this country might turn, as well as the fate of France.

Gentlemen, the next piece of evidence is a paper found upon Adams, dated Paris, the twenty-ninth of November, 1792; it is a letter from Joel Barlow and John Frost to the Constitutional Society, informing them of what had passed upon the presenting of those addresses; that paper will be read, and the two papers contained in it; and one of them will certainly be extremely material for your consideration.

"Citizens and Associates;—We have executed your commission to the National Convention of France, in a manner which we hope will meet your approbation. A translation of the papers herewith inclosed, was yesterday presented at the bar of the Convention, and received with universal applause. After which the president gave us the kiss of fraternity in behalf of the French nation, which we returned in behalf of our society. The scene was truly interesting to every feeling of humanity, and drew tears from a crowded assembly. It gave rise to reflections, which can scarcely be conceived by men in any other circumstance of life; it was the reconciliation of brothers, who had long been excited to a mortal enmity by misunderstanding and mutual imposition. The wounds which had bled for ages were closed and forgot, while the voice of nature declared they should never more be opened. The president pronounced a discourse in answer to our address, which we likewise enclose.

"JOEL BARLOW.
"JOHN FROST.

"Paris, 29th Nov., 1792.
"To the Society for Constitutional Information in London."

"At the Bar of the Convention, November 28.

"Citizens of France;—We are deputed from the *Society for Constitutional Information in London*, to present to you their congratulations on the triumphs of liberty. This society had laboured long in the cause, with little prospect of success, previous to the commencement of your revolution. Conceive then their exultations of gratitude when by the astonishing efforts of your nation, they behold the reign of reason acquiring an extension and solidity, which promise to reward the labours of all good men, by securing the happiness of their fellow-creatures.

"Innumerable societies of a similar nature are now forming in every part of England, Scotland, and Ireland. They excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of reform.

"After the example which France has given, the science of revolutions will be rendered easy, and the progress of reason will be rapid. It would not be strange, if, in a period far short of what we should venture to predict, addresses of felicitation should cross the seas to a *national convention in England*."

[Here follows the address.]

"We are also commissioned to inform the convention, that the society which we represent has sent to the soldiers of liberty a patriotic donation of one thousand pair of shoes, which are by this time arrived at Calais: and the society will continue sending a thousand pair a week for at least six weeks to come. We only wish to know to whose care they ought to be addressed.

"JOEL BARLOW,
"JOHN FROST.

"Paris, Nov. 28th, 1792."

"The President's answer.

"Brave children of a nation which has given lustre to the two worlds, and great examples to the universe; you have addressed us with something more than good wishes, since the condition of our warriors has excited your solicitude. The defenders of our liberty will one day be the supporters of your own. You command our esteem, you will accept our gratitude. The sons of liberty through the world will never forget their obligations to the English nation.

"The shades of Pym, of Hampden, and of Sydney, are hovering over your heads; and

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the moment cannot be distant, when the people of France will offer their congratulations to a national convention in England. Too long has the torch of discord enflamed the English and the French; while the ambition of kings, fomenting national aversions, compelled them to forget, that nature has produced none but brothers.

"Your islands, it is said, were severed from the continent by a great convulsion of the globe; but liberty, established on the two shores of the narrow sea which divides us, will repair the breach, and restore the two nations to the harmony and friendship for which nature has designed them. Reason has begun her majestic march; she can no longer be resisted in her course.

"Generous republicans, your appearance in this place will form an epoch in the history of mankind. History will consecrate the day when, from a nation long regarded as a rival, and in the name of a great number of your fellow-citizens, you appeared in the midst of the representatives of the people of France, and she will not forget to recount, that our hearts expanded at the sight. Tell the society which deputed you, and assure your fellow-citizens in general, that in your friends, the French, you have found men."

Gentlemen, on the part of the prosecution, they consider the language in which this address was presented to the National Convention of France, and the president's answer, as an exposition of the address itself, and as a comment upon it; and as pointing out what was meant to be expressed by it. Whether they are right in so stating it, is for your judgment; but they have fair ground so to state it. With regard to the expressions of the president of the National Convention, I do not myself think that much prejudice ought to arise to those who presented this address, from the language he thought fit to hold; because the policy of a nation, wishing to receive such addresses as these were, might dictate to them a language which went beyond the sentiments expressed in the address; and it could hardly be fairly attributed to those who presented the address, or who framed it. But the language of the person who presented the address is quite of another nature, and has a much closer application to the sentiments conveyed in the address itself. With respect to that language, without making a particular observation, I will only restate the words which are the most material.—

"After the example which France has given, the science of revolutions will be rendered easy, and the progress of reason will be rapid; it would not be strange if, in a period far short of what we shall venture to predict, addresses of felicitation should cross the seas to a national convention in England." Now, I think it may be fairly observed upon this language, that the National Convention which the author of that sentiment referred to, could not possibly mean a convention of delegates, for the purpose of reforming that branch of the constitution, the Commons House of Parliament; and I shall at present make no other comment upon it.

Gentlemen, the next piece of evidence is a paper found at Mr. Horne Tooke's house, which was produced by Mr. Thornton: it is in French, and there is a translation of it; it is a letter to the president of the French Convention, without a date, making an offer of four thousand livres, to be applied to the war. And there is a particular expression in that letter which may be factious, but does not seem to point directly to the object of the present inquiry—it is, that this is to be applied to enable them to carry on the war against all despots, even if the despots should be of the country of Mr. Horne Tooke, who sent the letter. I am not aware that there is any thing more in that letter material, if there is, it may be read.

They then produce the draft of a letter to Petion, which is proved also to be of Mr. Horne Tooke's hand-writing, and to have been found in his house: the answer to that letter is likewise produced. The letter respects supplies that were be sent for the use of the French army, and in what manner they might be most safely conveyed. There is one expression upon which observations arise, and it did not strike me at the time that there were more than one; if there is any more, if pointed out, the letter may be read; it is, where it speaks of being of use to the common cause of England and of France. It is rather difficult to understand how England and France, in the situation in which France then was; should have had a common cause.

The next piece of evidence is the proceedings of the Constitutional Society upon the fourteenth of December, 1792, when Mr. Horne Tooke was in the chair. A letter was received from the Friends of Liberty and Equality at Laôn; that letter is produced, being found upon Adams. There was also a letter upon the twenty-first of December from another place in France, Macon; and upon that occasion Mr. Horne Tooke and some others were appointed a committee for foreign correspondence, and these letters were referred to them; and they were ordered to keep a separate book of their correspondence. —That letter is also produced. If it is thought material, these letters may be read; but it does not appear to me that there were any answers sent to them; and it does not strike me that any very material observations arise upon them. Mr. Attorney General, would you wish to have them read?

Mr. *Solicitor General*.—Mr. Attorney General is not in court—it is his wish to submit entirely to your lordship's discretion.

Lord Chief Justice *Eyre*.—The next piece of evidence was the proceedings of the Constitutional Society upon the fifth of October, 1792—Mr. Horne Tooke present, when a let-

ter from Joel Barlow was read, speaking of a letter which he had written to the convention on the subject of the then constitution of France; he presents a copy of that letter to the Constitutional Society; and there are some expressions in his letter which may deserve consideration, and therefore it shall be read.

"Gentlemen;—I have just published a small treatise, in a letter to the National Convention of France, on the defects of the constitution of 1791, and the extent of the amendments which ought to be applied. As the true principles of government are the same in all countries, being founded on the Rights of Man, which are universal and imprescriptible, I conceive the subject of this treatise cannot be foreign to the great object of your association, of which you have done me the favour to make me an honorary member; I, therefore, present a copy of it to you, with the same confidence that I have done to the National Convention, a confidence arising from a full conviction that the work is founded in truth and reason, although these principles seem not so immediately reducible to practice in the government of this country as in that of France, yet their examination can never be unseasonable.

"A great revolution in the management of the affairs of nations, is, doubtless, soon to be expected through all Europe; and, in the progress of mankind towards this attainment, it is greatly to be desired that the convictions to be acquired from rational discussion, should precede and preclude those which must result from physical exertion.

"Such is certainly the ardent wish of your friend and adopted brother.

(Signed) "JOEL BARLOW."

"London, October 4, 1792."

Mr. Johnson the bookseller proved that the printed copy of Joel Barlow's letter to the National Convention of France was printed by him; he produced a copy, and the letter was read.

[The following extracts were then read from page 1, to the middle of page 12.]

—"Gentlemen, the time is at last arrived when the people of France, by resorting to their own proper dignity, feel themselves at liberty to exercise their unembarrassed reason, in establishing an equal government. The present crisis in your affairs, marked by the assembling of a National Convention, bears nearly the same relation to the last four years of your history, as your whole revolution bears to the great accumulated mass of modern improvement; compared, therefore, with all that is past, it is perhaps the most interesting portion of the most important period that Europe has hitherto seen.

"Under this impression, and with the deepest sense of the magnitude of the subject which engages your attention, I take a liberty which no slight motives could warrant in a stranger, the liberty of offering a few observations on the business that lies before you. Could I suppose, however, that any apology were necessary for this intrusion, I should not rely upon the one here mentioned, but my intentions require no apology; I demand to be heard, as a right. Your cause is that of human nature at large; you are the representatives of mankind; and though I am literally one of your constituents, yet I must be bound by your decrees. My happiness will be seriously affected by your deliberations; and in them I have an interest, which nothing can destroy. I not only consider all mankind as forming but one great family, and therefore bound by a natural sympathy to regard each other's happiness as making part of their own; but I contemplate the French nation at this moment as standing in the place of the whole, you have stepped forward with a gigantic stride to an enterprise which involves the interest of every surrounding nation; and what you began as justice to yourselves, you are called upon to finish as a duty to the human race.

"I believe no man cherishes a greater veneration than I have uniformly done, for the National Assembly who framed that constitution, which I now presume your constituents expect you to revise. Perhaps the merits of that body of men will never be properly appreciated. The greatest part of their exertions were necessarily spent on objects which cannot be described; and which from their nature can make no figure in history. The enormous weight of abuses they had to overturn, the quantity of prejudice with which their functions called them to contend, as well in their own minds as in those of all the European world, the open opposition of interests, the secret weapons of corruption, and the unbridled fury of despairing faction—these are subjects which escape our common observation, when we contemplate the labours of that assembly. But the legacy they have left to their country in their deliberative capacity will remain a lasting monument to their praise: and though while searching out the defective parts of their work, without losing sight of the difficulties under which it was formed, we may find more occasion to admire its wisdom, than to murmur at its faults; yet this consideration ought not to deter us from the attempt.

"The great leading principle on which their constitution was meant to be founded is, *the equality of rights*. This principle being laid down with such clearness, and asserted with so much dignity in the beginning of the code, it is strange that men of clear understandings should fail to be

charmed with the beauty of the system which nature must have taught them to build on that foundation. It shows a disposition to counteract the analogy of nature, to see them at one moment impressing this indelible principle on our minds, and with the next breath declaring, that France shall remain a monarchy, that it shall have a king, hereditary, inviolable clothed with all the executive, and much of the legislative power, commander in chief of all the national force by land and sea, having the initiative of war, and the power of concluding peace;—and above all, to hear them declare that, 'The nation 'will provide for the splendour of the 'throne,' granting in their legislative capacity to that throne more than a million sterling a year, from the national purse, besides the rents of estates which are said to amount to half as much more.

"We must be astonished at the paradoxical organization of the minds of men who could see no discordance in these ideas, they begin with the open simplicity of a rational republic, and immediately plunge into all the labyrinths of royalty; and a great part of the constitutional code is a practical attempt to reconcile these two discordant theories. It is a perpetual conflict between principle and precedent—between the manly truths of nature, which we all must feel, and the learned subtilties of statesmen about which we have been taught to reason.

"In reviewing the history of human opinions, it is an unpleasant consideration to remark how slow the mind has always been in seizing the most interesting truths; although, when discovered, they appear to have been the most obvious. This remark is no where verified with more circumstances of regret, than in the progress of your ideas in France relative to the inutility of the kingly office. It was not enough that you took your first stand upon the high ground of natural right; where, enlightened by the sun of reason, you might have seen the clouds of prejudice roll far beneath your feet, it was not enough that you began by considering royalty, with its well known scourges as being the cause of all your evils, that the kings of modern Europe are the authors of war and misery, that their mutual intercourse is a commerce of human slaughter—that public debts and private oppressions, with all the degrading vices that tarnish the face of nature, had their origin in that species of government which offers a premium for wickedness, and teaches the few to trample on the many; it was not enough that you saw the means of a regeneration of mankind in the system of equal rights, and that in a wealthy and powerful nation you possessed the advantage of reducing that system to immediate practice as an example to the world, and a consolation to human nature. All these arguments, with a variety of others which your republican orators placed in the strongest point of light, were insufficient to raise the public mind to a proper view of the subject.

"It seems that some of your own philosophers had previously taught, that royalty was necessary to a great nation. Montesquieu, among his whimsical maxims about laws and government, had informed the world that a limited monarchy was the best possible system, and that a democracy could never flourish but in a small tract of country. How many of your legislators believed in this doctrine; how many acted from temporizing motives, wishing to banish royalty by slow degrees; and how many were led by principles less pardonable than either, it is impossible to determine. Certain it is, that republican ideas gained no ground upon the monarchical in your constituting assembly, during the last six months of their deliberations. It is likewise certain, that the majority of that assembly took much pains to prevent the people from discovering the cheat of royalty, and to continue their ancient veneration, at least, for a while, in favour of certain principles in government, which reason could not approve.

"It is remarkable, that all the perfidy of your king, at the time of his flight, should have had so little effect in opening the eyes of so enlightened a people as the French. His flight, and the insulting declaration which he left behind him, were sufficient not only to give the lie to the fiction, with which common sense has always been put to the blush, and to which your assembly had attempted to give a sanction, *That Kings can do no wrong;* but they were sufficient to show, at least to all who would open their eyes, that the business of government required no such officer. There is no period, during your revolution (if there is any to be found in the history of France), when business went on with more alacrity and good order, than during the suspension of the royal functions, in the interval, from the time that the king was brought back to the capital in June, till the completion of the constitution in September. Every thing went right in the kingdom, except within the walls of the assembly. A majority of that body was determined to make an experiment of a limited monarchy. The experiment has been made. Its duration has, indeed, been short, being less than eleven months; but, although in some respects it has been almost as fatal to the cause of liberty, as any system could have been within the time, yet, in other respects, it has done more good than all the reasonings of all the philosophers of the age could have done in a much longer time: it has taught them a new doctrine, which no experience can

shake, and which reason must confirm, *That Kings can do no good.*"

(Page 14 and part of 15).—" Among the *probable* evils resulting from the kingly office, the principle one, and indeed the only one that need to be mentioned, is the chance of its being held by *a weak or a wicked* man. When the office is hereditary, it is scarcely to be expected but that this should always be the case. Considering the birth and education of princes, the chance of finding one with practical common sense, is hardly to be reckoned among possible events; nor is the probability less strong against their having virtue. The temptations to wickedness arising from their situation, are too powerful to be resisted. The persuasive arts of all their flatterers, the companions of their youth, the ministers of their pleasures, and every person with whom they ever converse, are necessarily employed to induce them to increase their revenue, by oppressing the people, whom they are taught from their cradle, to consider as beasts of burthen; and what must almost insure the triumph of wickedness in their tempers, is, the idea that they act totally and for ever without restraint. This is an allurement to vice, that even men of sense could scarcely resist. Impress it on the mind of any man, that he *can do no wrong*, and he will soon convince you of your mistake.

" Take this general summary of the evils arising from hereditary monarchy, under any restrictions that can be proposed, and place it on one side of the account, and state, on the other side, the truth which I believe no man of reflection will hereafter call in question, *That Kings can do no good*, and the friends of liberty will no longer be in doubt which way you will decide the question relative to that part of your constitution.

(Page 22 to 26)—" But it will be said, I am too late, with all these observations, on the necessity of proscribing royalty from your constitution. The cause is already judged in the minds of the whole people of France; and their wishes will surely be the rule of your conduct. I suppose that, without being reminded of your duty by a stranger, one of your first resolutions would be, to fix a national anathema on every vestige of regal power, and endeavour to wipe out from the human character the stain which it received with its veneration for kings and hereditary claims. But it requires much reflection, to be well aware to what extent this duty should carry you. There are many vices in your constitution, which though not apparently connected with the king, had their origin in regal ideas. To purify the whole code from these vices, and to purge human nature from their effects, it will be necessary to resort to many principles which appear not to have *struck the minds of the* first assembly.

" You will permit me to hint at some of the great outlines of what may be expected from you under the peculiar advantages with which you meet to form a glorious republic. Although many of my ideas may be perfectly superfluous, being the same as will occur to every member of your body, yet it is possible that some of them may strike the mind in a new point of light, and lead to reflections which would not rise from any other quarter. Should this be the case in the smallest degree, it ought to be considered, both by you and me, as an ample reward for our pains in writing and in reading this letter.

" On considering the subject of government, when the mind is once set loose from the shackles of royalty, it finds itself in a new world: it rises to a more extensive view of every circumstance of the social state. Human nature assumes a new and more elevated shape, and displays many moral features, which, from having been always disguised, were not known to exist. In this case, it is a long time before we acquire a habit of tracing effects to their proper causes, and of applying the easy and simple remedy to those vices of our nature which society requires us to restrain. This, I apprehend, is the source of by far the greatest difficulties with which you have to contend. We are so much used, in government, to the most complicated systems, as being necessary to support those impositions, without which it has been supposed impossible for men to be governed, that it is an unusual task to conceive of the simplicity to which the business of government may be reduced, and to which it must be reduced, if we would have it answer the purpose of promoting happiness.

" After proscribing royalty with all its appendages, I suppose it will not be thought necessary in France to support any other errors and superstitions of a similar complexion; but that undisguised reason, in all things, will be preferred to the cloak of imposition. Should this be the case, you will conceive it no longer necessary to maintain a *national church*. This establishment is so manifestly an imposition upon the judgment of mankind, that the constituting assembly must have considered it in that light. It is one of those monarchical ideas, which pay us the wretched compliment of supposing, that we are not capable of being governed by our own reason. To suppose that the people of France are to learn the mode of worshipping God from the decrees of the council of Trent, is certainly as absurd as it would be to appeal to such a council, to learn how to breathe, or to open their eyes. Neither is it true, as is argued by the advocates of this part of your constitution, that the preference there given to one mode of worship,

by the payment of the Catholic priests from the national purse, to the exclusion of others, was founded on the idea of the property supposed to have been possessed by that church, and which, by the assembly, was declared to be thenceforward the property of the nation.

"The church, in this sense of the word, signifies nothing but *a mode of worship;* and to prove that a mode can be a proprietor of lands, requires a subtility of logic that I shall not attempt to refute. The fact is, the church, considered as an *hierarchy*, was always necessary to the support of royalty; and your assembly, with great consistency of design, wishing to preserve something of the old fabric, preserved something of this necessary prop. But as the fabric is now overturned, the prop may be safely taken away. I am confident that monarchy and hierarchy will be buried in the same grave, and that in France they will not survive the present year."

(Page 31,)—"After laying down the great fundamental principle, *that all men are equal in their rights*, it ought to be the invariable object of the social compact to insure the exercise of that equality, by rendering them as equal in all sorts of enjoyments, as can possibly be consistent with good order, industry, and the reward of merit. Every individual ought to be rendered as *independent* of every other individual as possible; and, at the same time as *dependent* as possible on the whole community.

"On this undeniable maxim, I think the following positions ought to be founded and guaranteed in the constitutional code;"——

Upon the twelfth of October, 1792, at a meeting of the Constitutional Society, Mr. Horne Tooke being present Mr. Barlow's letter was read; and it was resolved,—"That Mr. Sturch be requested to draw up an answer to the letter of Mr. Barlow read at the last meeting, expressing how much pride this society feel at having elected him an honorary member."

Upon the nineteenth of October, 1792, at a meeting of the society, Mr. Horne Tooke being in the chair, an answer to Joel Barlow's letter was read, and approved of, and the answer was entered.—That answer will be read.

"Sir;—your manly and energetic address to the National Convention in France, having been received by the Society for Constitutional Information, and read at their last meeting, they cannot hesitate to return you their unanimous thanks for so valuable a present, and to express in the warmest terms their hearty approbation of its spirit and tendency: your little treatise, by exhibiting the most important political truths in a new and striking point of view, is, in their opinion, happily calculated to inform the inquiring mind, and to inspire an ardent and enlightened zeal for the freedom and happiness of mankind. In this opinion, they doubt not, the public voice will concur, when the pamphlet shall have obtained that general circulation to which its merits entitle it.

"It is with reason that you think the subject of your book not foreign to the great object of the society, which has invariably been, to lead their countrymen to think for themselves on the momentous subject of government, and thus to produce an universal and practical conviction of one great truth, that without a real representation of the people, frequently renewed, there can be no effectual check to that system of corruption, by which the public treasure is squandered; no security for that portion of liberty which we shall enjoy, nor any rational hope that government will be conducted with a view to its only proper object the happiness of the many, and not the interest of the few.

"The society observe, with heart-felt satisfaction, that in the present great crisis of human affairs while some writers are found even in this country, who openly proclaim what they call the 'cause of kings' in opposition to the cause of the people, whom they impudently term the 'swinish multi-'tude;' there are not wanting on the other hand, men of the first character and ability who nobly vindicate the rights of man, and they trust, that your excellent writings in general, and the letter to the Convention of France in particular, will be eminently conducive to the success and final triumph of that cause, which you justly style 'the 'most glorious that ever engaged the atten-'tion of mankind.'

"Joel Barlow, esq."

Gentlemen, this closes the correspondence between Mr. Barlow and the London Constitutional Society, and it will be proper just to point out to you what use is made of it on the part of the prosecution. Joel Barlow writes a letter to the National Convention of France upon the subject of their having retained in the constitution that they had settled, the kingly office: he is, in opinion, averse to that, and endeavours to convince them that the kingly office ought not to be retained in their constitution. He transmits this letter to the London Constitutional Society, and points it out to them as that which, though not immediately reducible to practice in England as in France, yet would not be foreign to the objects of that society. It goes on to state, that great revolutions are to be expected; and, therefore, as far as the sentiments of Barlow, from that letter and that book, are to be collected, certainly it is to be collected that Barlow thought that his letter would have an application in this country, with a view to a revolution to be expected here. It is undoubtedly true, that Mr. Bar-

low's sentiments are not to be imputable to any body he e, merely from the circumstance of his having thought fit to communicate them; and, therefore, in order to discover the true bearing of the evidence, you must see how Barlow's letter is received, and what conclusions arise from the manner in which Barlow's letter is received.

Upon the receipt of this letter in the Constitutional Society, they immediately state the pride they have in recollecting that he was an honorary member of the society (for he had been admitted an honorary member before he transmitted that letter), and then they vote a formal answer to Mr. Joel Barlow. And the language of that answer, certainly, deserves some notice, and does afford some observation; for the answer, after thanking him very warmly for the work, and approving of its spirit and of its tendency (you see it goes beyond the immediate application of it to the affairs of France) goes on thus—"It is with reason that you think the subject of your book not foreign to the great object of the society, which has invariably been to lead their countrymen to think for themselves on the momentous subject of government, and thus to produce an universal and practical conviction of one great truth, that without a real representation of the people, frequently renewed, there can be no effectual check to that system of corruption by which the public treasure is squandered—no security for that portion of liberty which we should enjoy—nor any rational hope that the government will be conducted with a view to its only proper object the happiness of the many, and not the interest of the few."

Now the question is, whether the observation which is made upon this passage is a just one: when they acknowledge that Mr. Barlow's letter, recommending the taking monarchy out of the constitution of France, had a material connexion with their object, and afterwards explained that object to be that they desire that the subjects should think for themselves on the momentous subject of government "thus to produce an universal practical conviction of one great truth, that without a real representation of the people, frequently renewed, there can be no effectual check to that system of corruption," and so on. It is put to you to consider, whether this approbation leads to that conclusion; unless you undertand that conclusion to mean a real representation of the people, without a monarchy. You see the question is, whether the construction that is put upon that letter in that way is justly put or no; or whether the whole result of this correspondence means no more than that they thanked him for a book in which the subject of government is largely discussed with a view to the single purpose of inpressing upon the minds of the people the necessity of a reform in the representation in the Commons House of Parliament. There are in the account-books some charges for publishing this letter of Mr. Barlow, and the thanks of this society.

Maclean then produced a paper found upon Adams, which is a letter to Adams from Sheffield, dated the fifteenth of October 1792, signed—"The Editors of the Patriot." It is a very long letter. It complains of no answer having been sent, when they applied to the Constitutional Society before; and it goes into a very long detail of the most proper methods of what they call enlightening the minds of the people. It proposes that reason should be the Generalissimo, but that reason should be seconded by a proper art; and this proper art is explained to be,—finding proper persons in towns, who should go round into the villages, and should there instil into the minds of the people those principles which it was fit should be inculcated upon them. And there is a long detail of the methods by which an ignorant farmer might be influenced—by which a tradesman might be influenced—by which any countryman might be influenced, and might have his mind enlightened. I do not think myself that it is quite necessary to do more than to state so much of the letter, and to remark upon it that, undoubtedly, this sort of industry must have a very considerable effect upon the minds of the people, and must be extremely capable of doing either a great deal of good or a great deal of harm, according to the subject matter of the instructions which those persons were to have instilled into them, in such a course as is pointed out by this editor of the Patriot.

Gentlemen, upon the ninth of November, 1792, at a meeting of the Constitutional Society, Mr. Horne Tooke being present, a letter by way of answer to this editor of the Patriot was agreed upon; this letter was produced by Maclean, who said he found it at Adams's, and it is proved by Mr. Woodfall to have some words in it interlined in Mr. Horne Tooke's hand. There are passages in it which it will be necessary should be read, one in particular on which a great deal of observation has arisen.

"Gentlemen;—The Society for Constitutional Information have been favoured with two letters bearing the signature of the editors of the Patriot. The first of these letters, dated June 11th, related particulars concerning the publication called the Patriot accompanied by some of the first numbers. It required our opinion, and our public approbation of the work, with hints for its continuance. It likewise narrated several interesting particulars, relative to the friends and foes of liberty, their various habits and propensities, and added conjectures on the means by which those habits and propensities might be turned to the advantage of freedom.

"The second letter, dated October 15, consisted of a complaint of neglect on the part of our society, a farther statement of facts similar to those contained in the first

letter, and an account including letters of the proceedings of a society at Stockport.

"All these letters have been read by the society for Constitutional Information; and the manly spirit in which they were conceived, their honest zeal, and the love of freedom by which their authors were animated, were highly grateful to that society. It was no feeling of superiority, no intentional disrespect, and assuredly no wilful mark of insult, that occasioned the silence of the society. We were required to perform that of which we were incapable; to pass judgment on a publication which none of us had read, and to correspond with persons in the dark, who had not thought fit (for reasons which they no doubt held to be prudent) to trust us with their names. What could be done? We admired both the talents and the intention of our correspondents (or correspondent); but we are simple, honest men, wanting the priestly gift of intuition, and could not predicate good or ill of that, of which, not having read, we could have no knowledge. Several weeks passed away, and still the members could give no opinion of the Patriot; for men must individually act by their own judgments; it is the very essence of freedom that they should be left thus to act; they will read the book first that happens most to attract their notice: and you gentlemen, are too liberal too just, and too manly, to require them to approve what they had not read, however deserving they might suspect it to be of approbation. Of the purport, however, of your undertaking, the ardour with which it is conceived, and the perseverance with which it appears to be pursued, the society finds no hesitation in both approving and applauding most zealously.

"You candidly ask the society for hints: but the detail of your letters convinces us you are yourselves proficients. Honest men, however, advise, asked or not asked, whenever they imagine that by advising they can do good. Perhaps, gentlemen, you may have read and remembered a publication, by the late father of his country, Dr. Franklin, called poor Robin's almanack; in which, with characteristic simplicity of language, he descended to the feelings, wants and understandings of the lower order, and in proverbial, jocular wisdom, conveyed truths to them of the highest importance, truths that prepared them for the sublime efforts to which they were soon to be roused; truths that led them onward to the avenues of freedom, while their sight was too feeble to endure the splendour of the temple itself. A certain number of such proverbial axioms, which men of your genius would easily invent, arranged at the beginning or end of each of your publications, and appealing to the real wants, grievances, and affections of the people, of which you appear to be perfectly masters, could not fail of producing an effect.

"We rejoice with you in the increase of the members and societies of freedom; our bosoms glow with the same sentiments. We are brothers in affection with you, with the freemen of Sheffield, of Stockport, and of the whole world. Freedom, though an infant, makes herculean efforts; and the vipers, aristocracy, and monarchy are panting and writhing under its grasp. May success, peace and happiness attend those efforts.

"Permit us to add, that the Society for Constitutional Information will gladly receive or communicate intelligences, and for that purpose be happy to correspond either with other societies or with individuals, that make the great and common cause of an equal and real representation of the people in parliament, and the other grand objects of freedom, their end. Information on such subjects will, to this society, at all times be peculiarly acceptable and gratifying."

Gentlemen, that which you are desired on the part of the prosecution, to attend to in this letter, is that extraordinary passage—"Freedom, though an infant, makes herculean efforts, and the vipers monarchy and aristocracy are panting and writhing under its grasp. May success, peace, and happiness attend its efforts." The words need no comment, but the date may perhaps be fit for you to attend to. This comes from the Constitutional Society, and it is a letter with which Mr. Horne Tooke is proved to have had a particular connexion, having interlined parts of it, written upon the ninth of November, very soon after that transaction with the National Convention of France; it is at this period that monarchy and aristocracy are treated of in this country (for it is in a letter to a subject of this country, upon matters respecting this country) as vipers writhing and panting under the Herculean efforts of freedom.

Gentlemen, the next paper was produced by Lauzun, which, he says, he found upon Hardy; it is a letter from Stockport, received upon the 27th of September, and answered upon the eleventh of October. That letter and the answer I believe it will be necessary to read to you.

"Dear sir;—In obedience to the wishes of the society here, I have the pleasure of acknowledging the honour of your letter and the packet which the kindness of our brothers of the London Corresponding Society so opportunely presented us with.

"It is doubly deserving our thanks, as it shows your kindness, and as it will be useful in the formation of our infant society. We stand much in need of your experience in this particular, and we doubt not of your best assistance. We are surrounded by a majority, a formidable one indeed, in power, abilities, and numbers; but we are not dismayed.

"We have carefully perused the addresses, and I am to observe on their contents in general, that the sentiments hardly rise to that height which we expect from men sensible of their full claims to absolute and uncontrollable liberty, i. e. unaccountable to any power which they have not immediately constituted and appointed.

"These are our sentiments, whatever may be yours, though in the present state of political knowledge it may be prudent not to avow them openly. We desire your sentiments on the means of accomplishing that object which we presume you have in view in common with us. We think it expedient that we should perfectly understand each other in the beginning, lest the appearance of disunion might furnish matter of triumph to our enemies. We observe one expression, which says, 'Numerous other reforms would undoubtedly take 'place, &c. &c.' But we ask how is that parliament to be chosen? Can we expect it from the present order of things? Would not all the evil be done away at once by the people assembled in convention? Does it appear probable that the odious laws which we complain of will be abolished any other way? Can the grievances arising from aristocracy be redressed while the ——— retains its present authority in the legislature? Is the universal right of conscience ever to be attained while the B——— maintain their seat on the ———?

"Your thoughts on these important points we most earnestly desire may be transmitted to us as soon as possible; not directed as the last, we fear it will excite suspicion. Direct to Mr. Joseph Heamer, Petty Carr, Stockport, who is chairman, occasionally in the absence of N. Hibbert, who resides too far from hence to be at hand on emergencies.—Your's, &c.

"P. W. Frost."

Addressed, "Mr. Thomas Hardy,
boot and shoemaker, near
Piccadilly."

Indorsed, "rec. 27th of Sept. 1792.
"Ans. 11th of Oct. and sent a copy of the address."

"The Friends of Universal Peace and of the Rights of Man Society.

"Mr. Joseph Heamer.

"*London*, 11*th Oct.* 1792.

"Sir;—With infinite satisfaction the London Corresponding Society's committee perused your letter; they are happy to learn your steady determination, spite of all obstacles, to pursue that sole means of political felicity a perfect representation of the people.

"With regard to our publications, our sentiments are expressed in as strong terms as prudence will permit; yet plain enough we imagine to convince the public, that while we expect every thing from an honest and an annual parliament, nothing short of such a senate chosen by the whole nation will satisfy us.

"True generosity, the characteristic of this nation, and of all unperverted men throughout the globe, calling upon us to countenance, at this juncture, the arduous struggle of the French nation against despotism and aristocracy, these foes to the human race, we have resolved upon addressing the French National Convention.

"Without entering into the probable effects of such a measure, effects which your society will not fail to discover, we invite you to join us, and to that end herewith you have a copy of our intended address; if you approve the idea, and will concur in sending it, be pleased to return us, without delay, a copy signed by your president and secretary, or by the delegates, stating each for how many persons he signs, we will then associate your body with ours, and with some others who have already assented to the measure. If, on the contrary, you disapprove that mark of zeal towards the only nation that has hitherto undertaken to restore to mankind its just rights, please to communicate to us your objections.—I am, sir, for the committee of delegates, your's, &c.

"M. M. ch."

Gentlemen, it has an inconvenient effect with respect to the observations that are to be made upon this evidence as we go along, that you have it not laid before you, exactly in chronological order. You see this is a correspondence in the month of October, and, in truth, before the addresses to the National Convention of France had been resolved upon. The answer alludes to the addresses as a thing intended, and that had not then actually taken place; if the papers had been read in the order in which the transactions passed, we should be able to understand it better. It is observed that this is a letter from the society at Stockport, very far indeed advanced in republican principles, from the plain tenor of their letter; calling upon this society to know what it was that they really intended, and whether they meant to go on, and suggesting pretty strongly that they could not go on with a house of lords, or with the bishops, desiring to know what it was they intended to do, and, as it seems to me, for the first time distinctly proposing this idea of a convention in England, that the evil was to be done away at once by the people assembled in convention.

This society, thus called upon, had various opportunities of explaining their conduct, in a way that could not possibly be misunderstood; that every body might know what it was that they really aimed at. You ob that the letter in answer (after general ties) proceeds as follows—"With reg

our publications, our sentiments are expressed in as strong terms as prudence will permit, yet plain enough, we imagine, to convince the public, that while we expect every thing from an honest and an annual parliament, nothing short of such a senate, chosen by the whole nation, will satisfy us."

As far as prudence will permit,—why did not prudence permit them to speak out more explicitly, if they meant fairly and honestly to the country? They say they speak plain enough to convince the public, that whilst they expect every thing from an honest and an annual parliament, nothing short of such a senate, chosen by the whole nation, will satisfy them.

I have professed myself, during the whole course of this inquiry, very unwilling to hold people to mere expressions. If one was to put a strict construction upon this expression, it amounts to this, that nothing will satisfy them but a senate chosen by the whole nation a senate chosen by the whole nation includes the whole parliament, and yet possibly that might not be the intention; if it was not the intention, it was very unguardedly expressed. Then they notify their intention to make this address to the National Convention, and then there are these extraordinary words—"Without entering into the probable effects of such a measure, effects which your society will not fail to discover, we invite you to join us, and to that end herewith you have a copy of our intended address." What could be the effects of that measure which that society was to discover respecting an application in any course that could be imagined to the Commons House of Parliament—what effect could an application to the National Convention in France have upon such a measure? if you are to understand that this is not what they meant, but that they meant to establish what was before expressed, a full and entire senate, chosen by the people, then the effect of an address to the National Convention of France, might be a thing of considerable consequence, and might be that effect which those persons, with the sentiments which they entertained, might discover. These are observations that do certainly arise upon this letter, and upon the answer to it.

Gentlemen, these two letters having been read, they next read a letter from Norwich, of the eleventh of November, 1792, and the draft of an answer to that letter, dated upon the twenty-sixth, and referring to that letter of the eleventh. I believe it will be necessary that this letter, and the answer, should be read.

"*Norwich, Nov. 11th*, 1793.

"Mr. Secretary:—Sir, We the society for Political Information, are desirous of holding and strenuously supporting the noble sentiments which you so lately and friendly dispersed among us; and, as we so much admire your well adapted plan for a reformation in the state, permit us, with the utmost deference to your worthy society, to participate with you in all your great national correspondence, which your very name promises to maintain; and, in consequence thereof, it is humbly desired by the society which I have the happiness to represent, to incorporate three members with your worthy fraternity; in doing which, I shall here inform you of their names and residence, which are as follows; Mr. Isaac Saint, at the Weaver's Arms, St. Augustins, Norwich; Mr. Anthony Caddewould, cordwainer, near the Globe, ditto; George Knapp, near ditto. Our principal design, sir, in doing this, is, that we may have an opportunity of knowing more exactly what may be thought the most eligible steps to be taken in carrying on this great business of our associated brethren, and to have an opportunity to ask such sort of questions as may be thought very reasonable among the brethren, especially when we think that publications are covered with a sort of obscurity in its language, as the Sheffield people's Declaration, which seemed determined to support the duke of Richmond's plan only; but since we find in a printed letter received from them in a book that they mean to abide by some moderate reform, as may hereafter be brought forward by the Friends of the People, which method is uncertain to us. Again we find that the Friends of the People and the Society for Constitutional Information do not exactly agree. We could be glad to know the reason: it seems to me as though the difference was this—the Friends of the People mean only a partial reform; because they leave out the words expressing the duke of Richmond's plan and talk only of a reform; while the Manchester people seem to intimate, by addressing Mr. Paine, as though they were intent upon republican principles only: now, to come closer to the main question, it is only desired to know whether the generality of the societies mean to rest satisfied with the duke of Richmond's plan only; or, whether it is their private design to rip up monarchy by the roots, and place democracy in its stead. I shall now, sir, give you an exact account of what plan we could wish to obtain, which I have already moved for at our general meeting, viz. a full and equal representation of the whole body of the people, a general suffrage of votes, and annual parliaments. I remember the Society for Constitutional Information intimated to us that Mr. Basham used to write to them in the name of the Revolution Society; if you approve of that appellation, pray be so kind as to give us a full and satisfactory answer. I shall say no more at present, but remain a friend to peace, not to anarchy; a well-wisher to the rights of man when obtained

by consent; and your most obedient and humble servant,

"GEORGE KNAPP, chairman.
"ISAAC SAINT, secretary
"ANTH. CADDEWOULD, member.

"P. S. I should esteem it a favour to be informed of the town residence of the lords Kenyon and Loughborough, for a matter of private concern."

Addressed "to Mr. Thomas Hardy, to be left at the Bell, Exeter-street, Strand, London."

"Fellow-citizens;—Your letter of the 11th instant was, by the secretary, laid before the committee of delegates of the London Corresponding Society.

"Having never before heard of your society, they wish to have some further information concerning it, as to its origin, its principles, and the number of its members; such an account in your next letter will give them great satisfaction. They do not thoroughly comprehend how it would be possible to incorporate with our society three of your members residing in Norwich inasmuch as it would be impossible to communicate to them at that distance all our correspondence, and they could not attend our committees, where the business is transacted. If it is information you want, they very readily will answer any question you may put to them; and, to that end, invite you to a regular correspondence. As to the object they have in view, they refer you to their addresses: you will therein see they mean to disseminate political knowledge and thereby engage the judicious part of the nation to demand a restoration of their rights in annual parliaments, the members of those parliaments owing their election to the unbought and even unbiassed suffrage of every citizen in possession of his reason, and not incapacitated by crimes. They consider the obtaining such parliaments to be the ground work of every necessary reform; to this therefore they steadily adhere, and turn themselves neither to the right nor to the left, to follow any other plan whatever; the rules and order of their society being so plain and easy, that if they can get a majority of the nation to act as they do, the proposed reform will effect itself. They look upon the trifling difference that may have arisen between the several societies to be of very little consequence, and think they will subside without any ways injuring the cause.

"They think it a matter of small importance whatever name you choose to adopt. They advise you to follow their plan, and divide yourselves into small societies, each of which to choose a delegate; the delegates, when met, to form the committee and transact the business of the society; afterwards let each delegate report to his division the business so done; let him admit fresh members, communicate fresh intelligence, encourage political discussion, or read to you such books as may convey the instruction your weaker members stand in need of; but, above all, be careful to preserve peace and good order among you; let no dispute be carried to excess; leave monarchy, democracy, and even religion, entirely aside; never dispute on these topics, let your endeavours go to increase the numbers of those who wish for a full and equal representation of the people, and leave to a parliament, so chosen, to form plans for remedying the existing abuses; should they then not answer your expectation at the year's end, you may choose others in their stead. The committee offer you every assistance in their power, but request that your questions may relate chiefly to the methods of obtaining a reform in parliament. Like yourselves, they are friends to peace, not anarchy, and well-wishers to the rights of man; yet not so sanguine in their expectations as to imagine those rights will be restored by the spontaneous consent of those who have so long deprived mankind of them. Understanding that you are many societies in Norwich, the committee recommend to you to unite upon the plan before mentioned; the correspondence, then carried on by one committee, will serve you all: they likewise recommend the appointment of one of the least conspicuous of your members to receive such letters as may be sent to the society, lest, if he be well known about your town to be a member, some interruption might take place in the delivery.

"I am, for the London Corresponding Society, most sincerely, fellow-citizens, your fellow-labourer in the cause of freedom,

"M. M. chairman."

Gentlemen, I think the material observation that arises upon these two letters is, when this extraordinary question was directly proposed, that no direct answer was returned; one should have imagined that men who were really and truly attached to the monarchy of the country—attached to the constitution of the country, in king, lords, and commons, and had nothing but a reform in the commons house of parliament to wish for, and to aim at, would have found no difficulty, whether they knew this society, or did not know them, in proclaiming to them, and to the world, a direct negative upon that question, when asked whether they meant to rip up monarchy by the roots, and place democracy in its stead. How to account for that is difficult, but it is for your consideration. Here I think they closed the evidence of 1792, as far as respects the proceedings of the Constitutional Society.

Upon the eighteenth of January, Mr. Tooke being present, a person description of citizen St. André was ad

an honorary member, and described as one of the most judicious and enlightened friends of human liberty; and that resolution has an interlineation in Mr. Horne Tooke's handwriting.

On the twenty-fifth of January there was a meeting, at which Mr. Horne Tooke was present, when two other persons, by the description of citizen Barrere and citizen Roland, also described in the same manner, each of them as one of the most judicious and enlightened friends of human liberty, were admitted honorary members, and this admission is ordered to be proclaimed to the world by publication.

Upon the first of February, 1793, Mr. Horne Tooke being present, certain speeches which had been made by two of those persons, St. André and Barrère, as given in the Gazette Nationale, or the Moniteur of Paris, on the fourth, sixth, and seventh of January, 1793, are ordered to be inserted in the books of the society, and that resolution is ordered to be published.

It appears from the whole of the context, that those persons who were thus admitted honorary members of the Society, were members of the National Convention in France; and that the speeches referred to were made in the course of the trial of the king of France; and as curious things they would be interesting to every body, and might find a place in every man's library: but what could be the motive for pointing these out to the public in this manner, by ordering the resolution to be published, which directs the public attention to the speeches made upon those days by those persons, and where they were to be found is a subject of observation, when you come to see what those speeches are. They were made by those who were for dealing severely with the king of France in the course of that trial; and one of the speeches goes to destroy the idea of the inviolability of kings, the other to give an explanation of a National Convention, as a thing inherent in the constitution of that country, and of every country, which undoubtedly is calculated to reconcile men's minds who might be unwilling to violate the constitution of their country, and who might be very willing to adopt a National Convention, if they could be satisfied that it was a constitutional measure. These are the sort of publications which are thus pointed out to the attention of the public, and with what view, for what purpose, and upon what principles they could be so pointed out, is entirely for your consideration; you will hear them read, because they do appear to be material, and considerable stress was laid upon them on the part of the prosecution.

[*Vide Hardy's* trial, *antè*, Vol. 24, pp. 542 *et seq.*]

Gentlemen, the next piece of evidence was the proceedings of the society of the fifteenth of March, 1793; a Mr. Gay, of Duke-street, St. James's, was proposed by Mr. Horne Tooke as a member; at that meeting there were thanks voted to Joel Barlow and John Frost; and as to Frost in particular, it was said their regard was not lessened, but increased by the prosecutions and persecutions which his faithful and due discharge of their commission, in presenting their address to the convention of France, may bring upon him. This, on the part of the prosecution, they insist upon to be an unqualified approbation of all that Frost did upon presenting their address, and by which they make themselves responsible for the language he held.

Upon the twenty-second of March there was another meeting, and then a letter from the London Corresponding Society was read, informing the Constitutional Society that two persons, of the names of Grant and Littlejohn, who had been associated members from the London Corresponding Society, to the Constitutional Society, had been excluded from their own society, and therefore that they did not consider them as proper persons to be associated to the Constitutional Society. The consequence is, the Constitutional Society desire them to elect others; they do elect Margarot and Hardy, who accept it, and they act in the office of stewards for the anniversary dinner.

The next is a paper found upon Adams, which purports to be a letter from the United Political Societies at Norwich to the Constitutional Society; the letter was read in the society, but the consideration of it was postponed. Mr. Tooke was not then present. Upon the twenty-ninth Mr. Tooke was not present, it was further postponed. Upon the fifth of April, Mr. Tooke being present, it was further postponed to the next meeting, and Mr. Frost desired to prepare an answer. Upon the twelfth of April, Mr. Tooke being present, the letter was read, and the answer was also read, and agreed to, and directed to be sent by the secretary. That letter and answer must be read.

"The United Political Societies of Norwich.

"*March 5th*, 1793.

"Gentlemen;—It is with peculiar satisfaction, we are favoured with your correspondence (not merely because you are so, although you are better fitted to diffuse knowledge), but because you are embarked in the same magnanimous cause, which demands with alacrity the attention of every individual; and it is with the utmost regret we see so many, either from ignorance, or something worse, who are inimical to their own interest; for nothing contributes so much to support the oppressor, as the ignorance of the oppressed; for which purpose the flood-gates have been opened gradually, till, by degrees, the streams of corruption have nearly overflowed the land; such as bounty acts, borrowing, qualifica-

tion, and septennial acts, besides standing armies, excise and tything laws, with various others too painful for reflection, without credit to the framers thereof, and without advantage to society. We do not presume to recapitulate these abuses for your information, but being too experimentally acquainted with them, we wish to find out a method of redress. At present we see a great propriety in universal suffrage, and annual elections, but we beg you will be obliging enough to inform us of what you have collected of the sense of the people by your correspondents. We have to inform you, that our worthy Corresponding Societies of London, have recently submitted three propositions for our investigation. First, whether a petition to parliament, or an address to the king, or a convention.

"Permit us briefly to state our views for your revisal; and with respect to the first, we behold we are a conquered people. We have tamely submitted to the galling yoke, and resistance in the present circumstances is vain. We cannot act the man, and as necessity has no law, we think ourselves under that degrading necessity to state our grievances to the House of Commons, with a request for redress, and should they refuse to grant our reasonable petition, we have still got (no thanks to them) a formidable engine, that will convey the insult to the remotest parts of the kingdom. As to the propriety of the second, we wish to submit to your superior judgment, and should esteem it a favour to be informed of the result; for at present we are dubious of its good consequences. Lastly, a convention, and oh! that the period were arrived!—but in the present state of affairs, alas! it's impracticable: yet this is the object we pursue, and esteem any other means only in subordination to, and as having a tendency to accomplish that desirable end.

"We wish to be in unison with our brethren and fellow-labourers, and should be glad of any information as soon as it is convenient; and we beg your advice whether it is necessary, as soon as possible, to collect signatures to a petition for a real representation of the people, and by whom to present it, whether Mr. Coke, Mr. Burch, or any of the Friends of the People; and whether it is attended with any expense. *Our members are both inimical to the business.*

"We can give you no accurate statement of the representation in our neighbourhood, only observe, that it is equally farcical here as elsewhere. To conclude, with united th——for all favours received, wishing you h——and success, and may heaven avert ————we subscribe ourselves, gentlemen —Your very obliged humble servants,

(Signed) "J. Broughton.

"Note. Please to direct to J. Broughton, St. Mary's-church, Mr. Blake being no longer our secretary.

"We have between thirty and forty separate societies in Norwich, besides many in the country villages.

"Mr. D. Adams, No. 4, Tooke's-court, Chancery-lane, London."

"Society for Constitutional Information.

"*London, 15th April*, 1793.

"Sir;—We have to acknowledge with great satisfaction the letter which you favoured us with, dated the 5th instant, relative to the most desirable of all other objects, the reform of a parliamentary representation. The honour you do us in supposing that we are better fitted than ourselves for the promotion of political knowledge, we must disclaim; because we observe with the greatest pleasure, that our country correspondents have too much zeal and information to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or elsewhere throughout the nation.

"In our sincerity for the good of our country, we trust, that we are all equal, and as such we doubt not of our ultimate success.

"We see with sorrow the existence of those evils, which you so justly represent as the streams of corruption overflowing this once free and prosperous country. We see with surprise and abhorrence, that men are to be found both able and willing to support those corruptions. It is however no small consolation to find, that others are not wanting in every part of the nation of an opposite character, who are ready to remedy, by all laudable and honourable means, the defect in our representation, the usurped extension of the duration of parliaments, and other grievances such as you notice in your letter.

"That the constitution of England has no more of that character it once possessed, than the supposed democracy of the country has become a matter of property and *privilege*, and that we have therefore no longer that mixt government which our adversaries are praising, when they know it is no longer in our possession, are facts notorious and indisputable. Where then are we to look for the remedy? To that parliament of which we complain? To the executive power which is implicitly obeyed, if not anticipated in that parliament? Or to ourselves, represented in some meeting of delegates for the especial purpose of reform, which we suppose you understand by the word CONVENTION?

"It is the end of each of these propositions that we ought to look to; and as success in a good cause must be the effect of perseverance, and the rising reason of the time, let us determine with coolness, but let us persevere with decision.

"As to a convention, we regard it as a plan the most desirable and most practicable, so soon as the great body of the people shall be courageous and virtuous enough to join us in the attempt. Hitherto we have no reason to believe that the moment is arrived for that purpose. As to any petition to the crown, we believe it hopeless in its consequences. With respect to the last of your proposals, we are at a loss to advise. If the event is looked to in the vote which may be obtained from that body to whom the petition is to be addressed, which of us can look to it without the prospect of an absolute negative? In this point of view therefore it cannot require a moment's consideration. But if we regard the *policy* of such a petition, it may, in our apprehension, be well worth considering as a warning voice to our present legislators, and as a signal for imitation to the majority of the people. Should such a plan be vigorously and generally pursued, it would hold out a certainty to our fellow-countrymen, that we are not a handful of individuals unworthy of attention or consideration, who desire the restoration of the ancient liberties of England; but, on the contrary, it might bring into light that host of well-meaning men, who in the different towns and counties of this realm are silently but seriously anxious for a reformation in the government.

"We exhort you with anxiety to pursue your laudable endeavours for the common good, and never to despair of the public cause.

"Signed by order, in the name of the Society for Constitutional Information.

"Tooke's Court, "D. Adams, sec."
16th April, 1793."

Addressed, "Mr. J. Broughton, secretary to the United Political Societies, Norwich."

Gentlemen, one material use to be derived from this letter is, that it seems to fix pretty nearly the period about which these two societies, the London Constitution and the London Corresponding Society, proposed to any of their correspondents the idea of a convention to be held here. The letter from the Norwich Society affords some observations, doubtless, upon the nature of the Convention, as they understood it. It says—"Oh, that that period were arrived"—which does not look like a Convention of the people, for the mere purpose of a reform in parliament. The answer to it from the Constitutional Society appears to me to be a guarded one, and to afford no just observation, that out of it is to be collected, that a Convention of another description was then in the contemplation of that society, for it speaks of a departure from the mixed government, it speaks of the means of restoring the government by correcting the defects in the representation, and by correcting the extension of the duration of parliaments, and that, therefore, in the fair construction of the letter, is the object to which the Convention which they speak of ought, if there is nothing to the contrary, to be understood to refer. There are certainly warm and eager expressions in the letter, which afford some observations against this idea that I am now stating, but, perhaps, hardly strong enough to change the nature of this convention, as they express it in this letter. They say—"That we have no longer that mixed government which our adversaries are praising, when they know it is no longer in our possession, are facts notorious and indisputable, where then are we to look for the remedy—to that parliament of which we complain—to the executive power which is implicitly obeyed, if not anticipated in that parliament, or to ourselves represented in some meeting of delegates, for the especial purpose of reform, which we suppose you understand by the term convention?" Regularly it is to that parliament and to the executive power, and it is only to them, that that application is to be made, and only by them that the relief could be obtained; but yet they might understand that the way to obtain relief even from them, was to exert themselves in the shape of a convention, and I do not see myself that there is any thing in that letter, upon which an observation can be made which will warrant the understanding the convention mentioned in that letter in another sense; it is an expression which may very well mean a convention of the people, for the purpose of obtaining relief in parliament, without being understood to be a convention intended to usurp the powers of government.

They next read a draft of a letter of Hardy's to the Friends of the People in Edinburgh, dated the seventeenth of May, 1793, which with Skirving's answer, were found at Hardy's by Lauzun; that letter may deserve your attention, therefore that letter, and the answer, must be read.

"*London, May* 17, 1793.

"Sir;—The London Corresponding Society eagerly seizes the opportunity of Mr. Urquhart returning to Edinburgh to request of your society a renewal of correspondence, and a more intimate co-operation, in that which both societies alike seek, viz. a reform of parliamentary representation. We are very sensible that no society can of itself bring about that desirable end. Let us therefore unite as much as possible, not only with each other, but with every society throughout the nation. Our petitions, you will have learned, have all of them been unsuccessful: our attention must now, therefore, be turned to some more effectual means. From your society we would willingly learn them; and you, on your part, may depend upon our adopting the firmest means, provided they are constitutional:

and we hope the country will not be behind hand with us.

"This war has already opened the eyes of many, and, should it continue much longer, there is no answering for its effects on the minds of the people.

"Our society has met with much persecution; nevertheless, we go on increasing in numbers and political knowledge. Wishing you and our cause all success, we remain most cordially,—sir, for the London Corresponding Society, your friends and fellow-labourers,

(Signed) "M. Margarot, chairman.
"Thomas Hardy, secretary.

"No. 9, Piccadilly."

"*Edinburgh, 25th of May*, 1793.

"Mr. Hardy;—Sir, Mr. Urquhart did me the pleasure to call on Thursday afternoon, and delivered your letter of the 17th current. I am much pleased with the contents of it, and shall lay it before the first meeting of our societies here, which however does not take place till Monday sevennight. I would have acknowledged the receipt of your favour by yesterday's post, but was too much employed in removing our household to another lodging to attend to any thing else.

"If either you in England, or we in Scotland should attempt separately the reform which we, I trust, seek to obtain, we should, by so doing, only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking. If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set, without affecting the vitals adverse to the system of reform. These might be easily accomplished; but to cut up deep and wide rooted prejudices, to give effectual energy to the dictates of truth, in favour of public virtue and national prosperity, in opposition to self and all its interested habits, and to withstand and overawe the final efforts of the powers of darkness, is the work of the whole, and not of a part; a work to which mankind, till this awful period, were never adequate, because never till now disposed to fraternize; not merely, or only I trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence.

"I know no greater service that I can do my country, than to promote the union you so wisely desire; and I am happy to assure you that I have hitherto discovered no sentiment in our association adverse to the most intimate and brotherly union with the associations in England.

"I think the minds of all must, in the nature of things, be now turned to more effectual means of reform. Not one person was convinced of the necessity of it by the most convincing arguments of reason, together with the most unequivocal expressions of universal desire; what then is to be hoped for from repetition? I am only afraid that the bow in England against reform was so contracted that in returning, it may break. You would willingly learn, you say, from us: I own that we ought to be forward in this: we have at once, in great wisdom, perfected our plan of organization; and, if we were in the same independent state of mind as the people of England, we would be able to take the lead. The associations with you are no more, I fear (excuse my freedom) than an aristocracy for the good of the people: they are indeed moderate, firm, and virtuous; and better cannot be: but we are the people themselves, and we are the first to show that the people can both judge and resolve, if undirected by faction, with both wisdom and moderation.

"I have not a higher wish, in the present exertions for reform, than to see the people universally and regularly associated, because I am persuaded that the present disastrous engagements will issue in ruin, and the people then must provide for themselves; and it would be unhappy, when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue. We will not need but to be prepared for the event, to 'stand and see the salvation of 'the Lord.' Let us therefore take the hint given us by our opposers; let us begin in earnest to make up our minds relative to the extent of reform which we ought to seek; be prepared to justify it, and to controvert objections; let us model the whole in the public mind; let us provide every stake and stay of the tabernacle which we would erect, so that when the tabernacles of oppression in the palaces of ambition are broken down, under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it!

"How hurtful to the feelings of a reflecting mind to look back to the wretched state in which the Roman monarchy, enfeebled and broken by its own corruptions, left the nations which it had subjected! like 'sheep 'without a shepherd,' they soon became a prey to every invader, because there was none to gather and unite them: had they, foreseeing the evil, associated for mutual defence, no robber would have been able to enslave them; they would have given laws to all parties, as well as to themselves; all separate colonies and nations would have sought their alliance: but not having virtue to associate and heal the divisions, and root out the selfish spirit, which ambition-fostering governments procure to their subjects, they fell under oppressors, from

under whose iron sceptre they have never yet been able to deliver themselves.

"We may suppose an event which we deprecate; nay, should we not be prepared for every possible issue of the present unprecedented divisions of mankind, we have a right to be apprehensive of the abilities of our own managers, who are so afraid to depart from precedent, that, like men of detail, they may be inadequate to the task of preserving the vessel from shipwreck, now grappling with danger, not only great, but new and uncommon. If the present ministry fail, who after them shall be trusted? It requires little penetration to see the anarchy and discord which will follow: it will be such that nothing short of a general union among the people themselves will be able to heal: haste, therefore, to associate, at least to be ready to associate. If then, such a broken state of things should take place, the civil broils that would necessarily ensue, would soon subside before the united irresistible voice of the whole. Do not, I entreat you, hesitate thinking such a work premature as yet: but a month, and then it may be too late. A malignant party may be already formed, and one waiting for the halting of the present managers; it will then be too late to seek to subject to deliberation, after a party has dared the act of rebellion. If you go no further than separate meetings in different towns, we will not be able to confide in your confraternity, because, while in such a state, you may be but the tools of a faction. We could have all confidence and unite with all affection in one assembly of commissioners from all countries of the world, if we knew they were chosen by the unbiassed voice of the people, because they would come up with the same disinterested views and desires as ourselves, having all agreed to a common centre of union and interest; but we could not confide in fellow-citizens who kept aloof from such union, and would not previously affiliate in one great and indivisible family.

"In troubling you with so long an epistle, I have at least shown my inclination to correspond. I have also hinted at things which appear to me the present subjects of consideration, because I am desirous of your opinion upon them; I have possibly wrote with too much freedom, but you will place it to account of zeal in the cause, and on this score discharge my design, which is disinterested and philanthropic. With sincere esteem and affection, I am, sir, your well-wisher,

"W. Skirving, secretary."

Gentlemen, it is a small circumstance in this case, that this letter from Skirving was produced in consequence of an overture made to him by Hardy, because Hardy stands acquitted; but the letter from Skirving is very fit for serious consideration, because they say, on the part of the prosecution, that this letter opens the true nature of that convention which had existed in Scotland before the date of that letter, and had, in the terms of the letter, been already organized, and did afterwards, in fact, meet. The letter is couched in mysterious terms; it is of a very doubtful complexion ,not very easy to be understood: but it is extremely difficult to confine it to the idea of a convention, for the mere purpose of soliciting a parliamentary reform; and undoubtedly it serves to throw a strong light upon that convention, as it was originally framed, and as it afterwards appeared, when it got to its full growth, as it appeared at the time when it was dispersed.

The next evidence is the proceedings of the Constitutional Society, upon the twenty-eighth of June, when Mr. Horne Tooke was present. A committee was appointed to prepare an address to the British nation; I understand the cross-examination of Mr. Tooke to have established that, in point of fact, no such address was prepared, and, if I am right, no observation, at present, need be made upon that piece of evidence. Mr. Tooke and Mr. Yorke were instructed to prepare it, but I apprehend it was not prepared.

The next piece of evidence was a paper produced by Lauzun, found at Hardy's, importing to be a letter from the Political Societies at Norwich, to Hardy. The latter part of that letter seems to deserve attention. You will hear the letter and the answer read.

"The Political Societies of Norwich, to the Secretary of the London Corresponding Society."

Indorsed, "Received the 25th of June, 1793; answered the 25th of July, 1793.

"Sir;—I lately received your letter from Mr. ————, dated April 22, which, through multiplicity of business, we have omitted to answer—hope you will excuse the delay. We also received your friendly letter, prior to that, wherein you stated three propositions: first, a petition to his majesty, or to parliament, or a national convention, and ordered one of our committee to answer it. Should be glad if you will inform me whether it was attended to; I gave my opinion on the subject to the Constitutional Society of London, and found their ideas congenial to my own, viz. an address to the king—futile; a petition to parliament (as a conquered people) tolerable: a national convention (if circumstances admitted)—best of all. To what an alarming crisis are we arrived!—the junto is formed and established—the people become a prey, and (to adopt the phrase of an Hibernian apostate) are treated as a swinish multitude, except the privilege of fattening. Wars must commence at the caprice of individuals; people torn

from their houses to be butchered; windmills must be attacked at the risk of being carried over and dashed to atoms; the nation drained of its sustenance to support a league, &c. &c. &c. Many epithets may with great propriety be applied, excepting such as Fox, Sheridan, Grey, Erskine, Lansdowne, Lauderdale, Stanhope, Paine, Priestley, Tooke, Wharton, Macleod, Barlow, Mackintosh, Cooper, besides many who have suffered under the iron hand of, &c. and when the people have complained, and humbly requested a removal of abuses, they have been treated with insult. Alas! where is the majesty of the people? An indifferent observer would suppose it to center in stars and garters, ribbons, and costly apparel, palaces, coaches and horses, with all the trumpery of puerile amusements; and were it not for their accursed consequences, we could bear with it; but when we consider how many sweat, and toil, and starve, to support it, how can we be persuaded but that there is a contrivance between the land-owners and the merchant to hold the people in vassalage? for they eat up the people as they eat bread; the influence of the aristocracy and hierarchy is become very alarming, for they have absorbed and swallowed up the people; but a rumour is spread from the south, and it is terrible to tyrants; it stings their mind—it galls their flesh—and like Pashur, are a terror to themselves, lest the people should assert their rights.—Yours, &c.

"H. Buckle.

"Please to direct to H. Buckle."

"*London, 25th July*, 1793.

"Fellow-citizen;—The London Corresponding Society have received, and read with pleasure, your letter of the 25th of June; but the answer which you mention to have been made to our three questions has not yet come to hand. We shall be glad to be informed in your next, whether it was ever put in the post office.

"With regard to the questions themselves, however individuals may have made up their minds on them, the public seemed most to approve the mode of petitioning parliament. We accordingly acquiesced, and sent in a petition signed by near 6,000 persons. With this letter you will receive a copy of it; and with its fate you are doubtless not unacquainted.

"While we agree with you, that the people are treated like swine, we are forced to acknowledge, that some among them, from their sloth and ignorance, scarcely deserve better usage; however unceasingly labouring to meliorate their condition as well as our own, and convinced that a thorough parliamentary reform is the only means of effectuating it, we firmly pursue our purpose, and in the most conspicuous manner; under the eye of the court, in the middle of the metropolis, and in the very nest of place and pension hornets, the tavern where Reeves, the tool of the junto, holds his inquisitorial tribunal, have lately held a general meeting of the society, sent forth an address to the nation, and entered into some spirited resolutions; a few copies of which we desire you to accept, and promulgate as far and as wide as you can; at the same time rest assured, that the firmness displayed therein is not confined to words, but that on every occasion our society will be found foremost in asserting and recovering the liberties of their country.

"Exhorting you, therefore, to throw aside all unavailing complaint, we wish you to occupy yourselves in instructing the people, in introducing and maintaining order and regularity in your own society, and in forming a junction with all others associated for the same purpose throughout the nation, by keeping up a constant correspondence with them; but, above all, orderly and courageously preparing yourself for the event; for as it is natural to suppose that those who now prey on the public will not willingly yield up their enjoyments, nor re-possess us of our rights without a struggle, which by their behaviour in Ireland, we have some reason to think they are meditating, and perhaps may intend to effect by means of those very foreign mercenaries who are now paid by the sweat of our brow, and whom, under some plausible pretence, it would be no difficult matter to land on our shore. It may be more advantageous to humanity to show them at first, that their opponents are neither mob nor rabble, but an indignant oppressed people, in whom is not yet entirely extinct the valour of their forefathers.

"Union and increase being then our only resources, let us then diligently exert ourselves therein with zeal and patience, removing ignorance and prejudice with firmness, and a consistent behaviour; encouraging those who join us; and above all, avoiding little bickerings among ourselves, ever discountenancing selfish jealousies and private animosities, and cordially joining with heart and hand in the common cause.

"Your neighbourhood must severely feel the dreadful consequences of an iniquitous, depopulating, and ruinous war; but you are not the only sufferers. From various parts of the country we learn, that the war abroad has already spread desolation at home; yet such is the blindness of some folks, that they talk of its being continued for years. Peace we wish to all men; but to such friends destruction. Let us hear from you soon, and let our future correspondence be more regular. We are with sincerity, fellow-citizens, for the London Corresponding Society, as your friends and

fellow-labourers for the good of our country,

"M. M.
"T. H."

The use which seems intended to be made of these letters is, to show you, that after the petition to parliament had failed, these persons began to entertain notions very violent and eager, and which seem to express a resolution to obtain by force, that which they could not otherwise obtain. The passages, in the answer to this letter from Norwich, which import this, are the assurance—"That the firmness, displayed by the society, is not confined to words, but that, on every occasion, they will be found foremost in asserting and recovering the liberties of their country." In the recommendation to these people, orderly and courageously preparing themselves for the event—"For as it is natural to suppose that those who now prey on the public, will not willingly yield up their enjoyments, nor re-possess us of our rights without a struggle, which, by their behaviour in Ireland, we have some reason to think they are meditating, and perhaps may intend to effect, by means of those very foreign mercenaries, who are now paid by the sweat of our brow, and whom, under some plausible pretence, it would be no difficult matter to land on our shore; it may be more advantageous to humanity, to show them, at first, that their opponents are neither mob nor rabble, but an indignant, oppressed people, in whom is not entirely extinct the valour of their forefathers." This has a pretty plain reference to force, if force should become necessary.

Gentlemen, the next is a paper found upon Adams, purporting to be a letter, dated from Edinburgh, the fifth of October, 1793, from a person of the name of Calender, to Hardy; it may be read because there is a passage in it that seemed to me rather to be likely to be of some use to the prisoner; where he is speaking of the purposes of the association, or convention, or by whatever name it was to be called, then began at Edinburgh.

"*Edinburgh, Oct. 5th*, 1793.

"Brother Hardy;—The letter and this paper will explain themselves. I was at a meeting on the day this mentions, and the determination of the association are universal suffrages and annual parliaments, and it was the unanimous desire and wish of that meeting, that two persons, if possible, should be sent from our society in England, as delegates, to meet our dear northern friends in the ensuing convention. I must earnestly desire the said wish of our friends here may be complied with, as it will add to the dignity of our association in particular, and to the convention in general, and will further the common cause much, in a way the judgment of our association must hit upon, without any explanation of mine. If any person could be elected of sound principles, a clear understanding speaker, with a long head and a good warm heart in the cause of freedom, having it in view, and not his own aggrandizement, such a delegate would be of great service. If such a one is chosen, he must be here by the twenty-ninth day of this month, as the convention meets on that day; and if my poor feeble efforts will be of any service to the convention as the other delegate, the London Corresponding Society may command me for the support of their interests as far as I am capable; but those of you who know me, know I am no speaker, much less an orator, but this I will say, my heart lies in the right place, and hates and abhors all despots. Please to communicate this to our friends, and let me know the society's determination, if they will honour me with their confidence. I am often with our friend Muir; he bears his confinement with a fortitude of soul, inspired with the genius of liberty; he is well. I have much to say, but I must leave off. This letter will be delivered by my servant, which must have a speedy answer, because of the approaching meeting here. Every thing of moment I will communicate to you from time to time; and wishing destruction to all human butchers, and success to all friends of liberty, I remain, brother Hardy, your's to command. A. CALENDER."

"My servant will show you my direction."

This letter is of some use likewise to open the nature of that convention, and to show how it was calculated, gradually, to increase to an indefinite number of members.

Mr. Horne Tooke is put down as being present when this letter was read, but it appeared, by the evidence of Adams, that he was not present.

There was an extraordinary general meeting on the twenty-eighth of October, Mr. Horne Tooke was not present. They read an address, signed by Skirving, and resolved to send delegates to the ensuing convention, to be held in Edinburgh, for promoting a reform in parliament; they resolved that two members of this society be elected as delegates to the said convention; Henry Yorke, Charles Sinclair, and John Richter were proposed; Sinclair and Yorke were elected delegates; Sinclair, being present, accepted of the office of one of the delegates; and they resolved, that if either Henry Yorke, or Charles Sinclair, be prevented from accepting the delegation, then John Richter was to be admitted in his room.

The next evidence is a paper produced by Scott, found upon Skirving, and it is the minutes of the British Convention. They began with reading the fifth day's sitting, at which time the persons, that were assembled at this convention, assumed the style of, "The British Convention of the delegates of the People, associated to obtain Universal Suffrage

and Annual Parliaments." Upon the ninth day there was a resolution for the Convention to resolve itself into a committee, and a blank was left in the minutes for a resolution which was come to; and this farther observation arises upon the transactions of that day—that the minute expresses that it is the *House* that resolves itself into a committee. Mr. Scott then proved another paper found upon Sinclair, a resolution that had been left in blank in the minutes, which I before took notice of; that resolution it will be proper to read.

[*Vide* vol. 23, pp. 385, 386.]

What was to be done, gentlemen, at this permanent sitting of this convention, to be held upon the appointment of a secret committee, in some secret place, on the different emergencies that are there described, is certainly not expressed, but must be collected from all the circumstances; and it will be material to consider whether there be ground to collect, that all that was intended to be done, in that place, was to apply to parliament for relief in the particular cases suggested, which would apply to every thing, but the case of an invasion; in the case of an invasion, it is a little difficult to comprehend of what use such a meeting could be. If, on the other hand, you collect from this resolution, that this was to be a meeting which was to use force in either of the cases pointed out, it has a very material and weighty effect in another view of the case; it is darkly expressed, and you must form your own judgment upon it, under all the circumstances of the case, as well as you can. They go on to resolve, "That a committee be appointed to draw up a declaration of the natural, unalienable, and imprescriptible rights of man, to be prefixed to an address to the people of Great Britain." It does not appear whether that was ever drawn up; probably the dispersion of this Convention, on the fourteenth day prevented it. To those who are acquainted with the history of the proceedings of the National Convention of France, this sort of resolution has an alarming aspect.

They then read the proceedings of the tenth day, and then they date, "Convention-hall, the first year of the British Convention." This is a very extraordinary assumption, if it be referable to a private meeting of subjects, meaning to obtain parliamentary reform in a regular course; it is that formal style which belongs to a public assembly, and, indeed to a public assembly acting for the government; but then this may be vanity, and folly and nonsense, and, as such, taken under all the circumstances, may deserve no attention; or it may be a very material circumstance, added to other circumstances in the case, marking what were the objects of this meeting; it does require an explanation, in some manner or other, because it is a sort of thing not to be found in the private assemblies of any individuals, assembled for any regular purposes that can be imagined.

Upon the eleventh day's sitting there is another affectation of the manners of the French Convention, for they give "the honours of the sitting" to some person who was there. The secretary upon this day read a motion for publishing the natural, unalienable, and imprescriptible rights of man, which was ordered to be referred to the committee of union. There was then a motion for drawing out a scroll of a petition to parliament, that seemed to be what was more immediately the business of this meeting, according to the representation of it, that is made in favour of it, but "the order of the day" was put upon that. The order of the day would have been a thing unknown to us, without the explanation that we have from the course of the proceedings in the National Convention of France; there the order of the day, put upon a motion, means nothing more than a manner of pronouncing a negative. There are, in the regular establishments of our constitution, very frequently orders of the day, which, being called for, have a priority; but it does not at all appear, that in this case, there was any other business which had been appointed for that day, which was to have the priority; and, in the way this was put an end to, they seem to have adopted, the cant-words that have been used in France.

Upon the twelfth day they enter into a debate of the comparative merit of the title of "gentleman" and "citizen," and they prefer to use the word citizen.

Upon the thirteenth day they began to apprehend that they should be dispersed; and then there is a resolution—"That the moment of any illegal dispersion of the present convention, shall be considered as a summons to the delegates, to repair to the place of meeting appointed for the convention of emergency by the secret committee; and that the secret committee be instructed to proceed, without delay, to fix the place of the meeting."

They then, on behalf of the prisoner, called for the proceedings of the 21st of November, and, undoubtedly, they throw an air of ridicule upon the proceedings of this convention. It speaks of fifteen shillings being received from six visitors; proposes a general collection to be made; Callender and Scott were appointed collectors; four pounds five shillings and eight-pence was drawn, as they call it, of which there were two bad shillings, which are deducted from this sum. There was nineteen and three-pence collected at the door, and a shilling more; this, I think, was all that was read of these proceedings of the Scotch Convention.

They then read the proceedings of the Constitutional Society of the 10th of January, 1794, when Mr. Horne Tooke was present. Mr. Sinclair's letter, and the subsequent proceedings of the convention, were ordered to

be taken into consideration on the Friday following, at a general meeting. On Friday, the 17th of January, there was another meeting, when Mr. Horne Tooke was in the chair. There was a resolution come to, which was voted to be published; that is of importance, and you must hear it read.

"Resolved, That law ceases to be an object of obedience whenever it becomes an instrument of oppression.

"Resolved, That we recall to mind, with the deepest satisfaction, the merited fate of the infamous Jefferys, once lord chief justice of England, who at the era of the glorious Revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people.

"Resolved, That those who imitate his example, deserve his fate.

"Mr Tooke having left the chair, Resolved, that Mr. Gerrald be called to the chair.

"Resolved, That the Tweed, though it may divide countries, ought not, and does not, make a separation between those principles of common *severity*, in which Englishmen and Scotchmen are equally interested; that injustice in Scotland, is injustice in England, and that the safety of Englishmen is endangered, whenever their brethren, in Scotland, for a conduct which entitles them to the approbation of all wise, and the support of all brave men, are sentenced to Botany Bay, a punishment hitherto inflicted only on felons.

"Resolved, That we see with regret, but, we see without fear, that the period is fast approaching when the liberties of Britons must depend not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised.

"Resolved, That we approve of the conduct of the British Convention, who though assailed by force, have not been answered by argument, and who, unlike the members of a certain assembly, have no interest distinct from the common body of the people.

"Resolved, That a copy of the above resolutions be transmitted to citizen William Skirving, secretary to the British Convention, who is now imprisoned under colour of law in the Tolbooth of Edinburgh.

"Resolved, That the resolutions now passed be published in the newspapers.

"Resolved, That the resolutions now passed be signed by the chairman and secretary."

Gentlemen, you observe that these resolutions import an unqualified approbation of the proceedings of this Scotch Convention, and also do allude, intelligibly enough, to a resolution to resort, if it should become necessary, to force, for the recovery, of what is understood to be, their rights. It is to be observed upon this, that Mr. Horne Tooke was in the chair when the two first resolutions were voted, and that he left the chair afterwards, when Gerrald took the chair; whether Mr. Tooke absolutely retired, does not appear by the evidence, one way or other: he certainly was not in the chair.

The next is a paper found upon Adams, which imports to be a letter from Hardy, and, among other purposes, to give notice of an anniversary dinner of the London Corresponding Society, upon the 20th of January; and he also sends copies of an indictment against Margarot, in Scotland.

Upon the 24th of January, 1794, Mr. Horne Tooke was present, and Martin being present, there is a motion that the address of the London Corresponding Society shall be inserted in the books of this society; it will be necessary that that should be read. It was observed, on the part of the prisoner, Mr. Horne Tooke, that the address that was ordered to be entered, has no date given to it in the resolution; that therefore there is no knowing exactly what address was referred to; that is for your consideration, the fact being that this is a transaction upon the 24th, and that upon the 20th, at the Globe-tavern, there was an address of the London Corresponding Society agreed upon, which was of an extraordinary nature, and must have been at that time, extremely well known, and the subject of conversation; and, unless the contrary appears, I should imagine you will not find much difficulty in supposing that that was the address which is there described.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, 24th January, 1794,

PRESENT,

"Mr. John Pearson in the chair,"

"Mr. Horne Tooke, count Zenobio, Mr. Frost, Mr. Bonney, rev. Mr. Joyce, Mr. J. Williams, Mr. Stark, Mr. Banks, Mr. Rutt, Mr. Bonham, Mr. Kydd, captain Gawler, Mr. Wardle, Mr. Holcroft, Mr. Jennings, Mr. Watts, Mr. John Martin.

"A motion was made, that it be

"Resolved, That the most excellent address of the London Corresponding Society, be inserted in the books of this society, and that the King's speech to His * parliament be inserted UNDER IT.—In order that they may be always ready, for the perpetual reference of the members of this society, during the continuance of the present unfortunate war; and that, in perpetuam rei memoriam, they may be printed together, in one sheet, at the *Happy* conclusion of it; which happy conclusion, according to the present *prosperous* appearances, we hope and believe not to be many months distant.

"* An amendment was moved, 'That

'between the words His and Parliament, 'the word *Honourable* should be inserted.'

"*Honourable* was withdrawn.

"Another amendment was then moved, 'That between the words His and Par-'liament, the word *Faithful* should be in-'serted.'

"*Faithful* was withdrawn.

"And it was unanimously resolved, 'That His and His only, is the proper 'epithet for parliament upon the present 'occasion.'

"The resolution then passed unanimously, in its original form.

"Resolved, That the London Corresponding Society have deserved well of their country.

"Resolved, That the secretary be ordered to cause forty thousand copies of the address, the speech, and these resolutions, to be printed on one sheet, and properly distributed in England, Scotland, and Ireland.

"Resolved, That these resolutions be published in the newspapers."

Gentlemen, Mr. Maclean then produced a paper found at Adams's, which is proved by Mr. Woodfall to be the hand-writing of Mr. Tooke; that paper is a minute of these resolutions. With regard to all that part of the paper which contains remarks upon the king's speech, it certainly has no immediate reference to this particular case; and therefore, though it is impossible not to disapprove extremely of it, and to lament that such liberties should be taken, upon any occasion, with a solemn act of state, which the king's speech in parliament is, yet it ought not to influence beyond its proper bearing; and it does not seem to me to have any influence to prejudice the prisoner, Mr. Horne Tooke, upon the present inquiry. It was wrong, no doubt, but it does not apply directly to this case: why it should have been published, in this manner, so anxiously, together with that address of the London Corresponding Society, is very inexplicable. The fact was so, and here is a formidable resolution, that forty thousand copies of this address, speech, and resolution, should be published upon one sheet of paper. You find, in the evidence, some reason to doubt whether they did always publish copies quite to the extent of the resolutions passed. Upon the resolution this appears to be a very anxious dispersion of that address, and of those other papers.

Gentlemen, the next witness is James Davidson; he says he is a printer; that, before the 20th of January, he was applied to to print the Address, and that he had printed the copy of it, which is now produced, by the order of Mr. Thelwall, and that copy was found in the possession of Adams, and this is the Address of the 20th of January, at the Globe-tavern, which has not before been read to you, but which must now be read.

"AT A GENERAL MEETING

"OF THE

"*LONDON CORRESPONDING SOCIETY*,

"*Held at the* GLOBE TAVERN, *Strand*,

"*On MONDAY the 20th Day of JANUARY*,

"1794.

"CITIZEN JOHN MARTIN, IN THE CHAIR.

"The following ADDRESS to the PEOPLE of *Great Britain* and *Ireland* was read and agreed to.

"CITIZENS;—We find the nation involved in a war, by which, in the course of ONE Campaign, immense numbers of our countrymen have been slaughtered; a vast expense has been incurred, our Trade, Commerce, and Manufactories, are almost destroyed, and many of our Manufacturers and Artists are ruined, and their families starving.

"To add to our affliction, we have reason to expect, that other taxes will soon be added to the intolerable load of imposts and impositions with which we are already overwhelmed; for the purpose of defraying the expenses which have been incurred, in a fruitless crusade, to re-establish the odious despotism of France.

"When we contemplate the principles of this war, we confess ourselves to be unable to approve of it, as a measure, either of justice or discretion;—and if we are to form our calculation of the result, from what has already passed, we can only look forward to defeat and the eternal disgrace of the British name.

"While we are thus engaged in an expensive and ruinous and foreign war; our state at home is not less deplorable.

"We are every day told, by those persons who are interested in supporting the *Corruption* List, and an innumerable Host of *Sinecure* Placemen, that the Constitution of England is the perfection of human wisdom; that our laws (we should rather say, THEIR laws) are the perfection of justice; and that *their* Administration of those laws is so impartial and so ready, as to afford an equal remedy, both to the rich and to the poor; by means of which, we are said to be placed in a state of absolute freedom, and that our Rights and Liberties are so well secured to us as to render all invasion of them impossible.

"When we ask, how we enjoy these transcendant privileges; we are referred to MAGNA CHARTA, and the BILL of RIGHTS; and the glorious REVOLUTION in the year 1688, is held out to us, as the bulwark of British liberty.

"CITIZENS;—We have referred to *Magna Charta*, to the *Bill of Rights*, and to the *Revolution* and we certainly do find

that our ancestors did establish wise and wholesome laws; but we as certainly find, that, of the venerable Constitution of our ancestors, hardly a vestige remains.

"The only Chapters of the Great Charter, which are now in legal existence, are the 14th and 29th.

"The important provision of the 14th Chapter, runs thus:

"'A Freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great fault after the greatness thereof, saving to him his contenement; and a Merchant likewise, saving to him his merchandize; and any other's villain than ours shall be likewise amerced, saving to him his wainage; and none of the said amerciaments shall be assessed, but by the oath of honest and lawful men of the Vicinage.'

"But by the usurped power of the judges, in assessing Fines (and what Fines!) in the cases of Misdemeanor; this glorious Right of the Subject, of having these fines assessed by the Jury (the only possible protection from slavery and the vilest oppression), is unjustly and infamously ravished from us.

"The provision of the 29th chapter runs thus:

"'No Freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed or exiled, or any otherwise destroyed, nor we will not pass upon him, nor condemn him, but by the lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny, or defer to any man, either justice or right.'

"The various methods now in constant practice by which the benefits of this provision are totally defeated and destroyed, might induce us to suppose, that the GREAT CHARTER has been repealed; if we did not assuredly know, that it is the fundamental basis of our constitution; which even the REAL representatives of the people (much less the miserable nominees of HELSTONE and OLD SARUM) have not the right, nor (as we trust it will be found by experience) the POWER to repeal. Yet what do we find in practice? Unconstitutional and illegal INFORMATIONS EX OFFICIO, that is, the arbitrary will of the king's Attorney General, usurping the office of the ACCUSING Jury; and the interested oath of a vile common informer, with the judgment of as vile a common trading or pensioned justice, substituted in the room of our birthright, an impartial trial *by our country*.

"Add to this, that the exorbitant expense of judicial proceedings, the novel practice of arbitrarily and repeatedly annulling the verdicts of juries, and the dilatory practice of the courts, most openly and shamefully contradict the clause which forbids the denial, the delay, and the sale of justice.

"A man accused of FELONY (for which by the common law of England, his life and goods are forfeited) may be bailed on finding two sureties for forty pounds each; but upon a charge of MISDEMEANOUR by *words* only, bail to the amount of ONE THOUSAND POUNDS has been demanded.

"Upon conviction also, for such misdemeanour, enormous fines, long and cruel imprisonments unknown to our ancient laws, and unsanctioned by any new statutes, have of late (and but of late) been too frequently and too oppressively inflicted. And all this, although by this bill of rights it is declared, that 'excessive bail shall not be demanded, nor cruel and unusual punishments inflicted.'

"If we look to IRELAND we find that acknowledged privilege of the people, to meet for the support and protection of their rights and liberties, is attempted, by terror, to be taken away by a late infamous act of parliament: Whilst titles of honour! No, but of dishonour, are lavished; and new sources of corruption opened, to gratify the greedy prostitution of those, who are the instruments of this oppression.

"In SCOTLAND, the Wicked Hand of Power has been impudently exerted, without even the wretched formality of an act of Parliament, Magistrates have forcibly intruded into the peaceful and lawful meetings of Freemen; and, by force (not only without law, but against law), have, under colour of magisterial office, interrupted their deliberations, and prevented their association.

"The wisdom and good conduct of the BRITISH CONVENTION at Edinburgh, has been such as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized, and made use of as evidence against them, and many virtuous and meritorious individuals, have been, as cruelly as unjustly for their virtuous actions disgraced and destroyed by infamous and illegal sentences of transportation. And these unjust and wicked judgments have been executed with a rancour and malignity, never before known in this land; our respectable and beloved Fellow-citizens have been cast FETTERED into Dungeons amongst felons in the Hulks, to which they were not sentenced.

"CITIZENS;—We all approve the sentiments, and are daily repeating the words, for which these our respectable and valuable brethren are thus unjustly and inhumanly suffering. We too, associate in order to obtain a fair, free, and full representation of the people in a house of real national representatives. Are we also willing to be treated as FELONS, for claim-

ing this our inherent right, which we are determined never to forego but with our lives, and which none but thieves and traitors can wish to withhold from us? Consider, it is one and the same corrupt and corrupting influence which, at this time domineers in Ireland, Scotland, and England. Can you believe that those who send virtuous Irishmen, and Scotchmen fettered with felons to Botany Bay, do not meditate and will not attempt to seize the first moment to send us after them? Or, if we had not just cause to apprehend the same inhuman treatment; if instead of the most imminent danger, we were in perfect safety from it; should we not disdain to enjoy any liberty or privilege whatever, in which our honest Irish and Scotch brethren did not equally and as fully participate with us? Their cause then and ours is the same. And it is both our duty and our interest to stand or fall together. The Irish parliament and the Scotch judges, actuated by the same English influence, have brought us directly to the point. There is no farther step beyond that which they have taken. We are at issue. We must now choose at once either liberty or slavery for ourselves and our posterity. Will you wait till BARRACKS are erected in every village, and till *subsidized* Hessians and Hanoverians are upon us?

"You may ask perhaps, by what means shall we seek redress?

"We answer, that men in a state of civilized society are bound to seek redress of the grievances from the laws; as long as any redress can be obtained by the laws. But our common Master whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress from our own laws and not from the laws of our plunderers, enemies, and oppressors.

"THERE IS NO REDRESS FOR A NATION CIRCUMSTANCED AS WE ARE, BUT IN A FAIR, FREE, AND FULL REPRESENTATION OF THE PEOPLE.

"RESOLVED, that during the ensuing session of parliament, the general committee of this society do meet daily for the purpose of watching the proceedings of the parliament and of the administration of the government of this country. And that upon the first introduction of any bill, or motion inimical to the liberties of the people, such as, for LANDING FOREIGN TROOPS IN GREAT BRITAIN or IRELAND, for suspending the HABEAS CORPUS ACT, for proclaiming MARTIAL LAW, OR FOR PREVENTING THE PEOPLE FROM MEETING IN SOCIETIES for CONSTITUTIONAL INFORMATION, or any OTHER INNOVATION of a similar nature, that, on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith to call a GENERAL CONVENTION of the PEOPLE, to be held at such place and in such a manner as shall be specified in the summons for the purpose of taking such measures into their consideration.

"Resolved, that the preceding Address and Resolution be signed by the chairman, and printed and published.

"J. MARTIN, CHAIRMAN.
"T. HARDY, SECRETARY".

Gentlemen, there are but few observations to be submitted to you at present upon this paper; you have heard it read, and there is nothing equivocal in the expressions, till you come to that which seems to be the result of the whole of the resolutions, namely, "That there is no redress for a nation, circumstanced as we are, but in a fair, free, and full representation of the people." Now the short question, that is submitted to your judgment, upon that is—Do these people speak of a redress to be obtained by a full, fair, and free representation of the people, who have said, that there is no redress to be had from the laws; who have said, that they must seek redress from themselves; that they cannot have grapes from thorns, nor figs from thistles?—Can they mean to have that full, fair, and free representation of the people by any course of law, or in any ordinary course of the government and constitution of the country; or must they necessarily be understood to mean that they will have that fair, full, and free representation of the people by their own force, and by their own strength, independent of the laws and the constitution of the country?

Gentlemen, the next is a paper found upon Adams, dated the twenty-fourth of January, 1794, which purports to be a letter from Hardy, as secretary of the London Corresponding Society, signifying, that by order of the Society, he transmitted to them copies of their late publication; that is the address of the twentieth of January; you recollect the paper read was found upon Adams.

William Walker is then called to prove the hand-writing of one John Martin, in a letter addressed to Margarot, at the Tolbooth, Edinburgh, which letter bears date the twenty-second of January, 1794. In this letter he speaks of the meeting of the twentieth, and of himself being in the chair: he gives an account how every thing passed, and of another general meeting being intended, for the purpose of obtaining a subscription for the persons in prison in Scotland; there are a great many indecent and insolent observations, upon a circumstance which happened when the king was returning from the Parliament

House: he says, I could write strange things, but he forbears, and mentions that a person of the name of Gay, whom he calls citizen Gay, says more than I dare write. I do not find that there is any other explanation attempted of that passage, than that there was a person of the name of Gay, of Duke-street, Westminster, proposed as a member of the Constitutional Society by Mr. Tooke; but as to whether such a person was proposed, or not proposed, or who or what he was, if he says what this man dare not write, it does not seem to amount to any thing; and I hardly think it is necessary that you should hear this letter of the twenty-second of January, 1794, read: I wish to avoid, if possible, a repetition of the ribaldry that is in it, respecting the person of the king, perhaps it may be as well that it should not be read,* unless desired by the counsel on either side.

The next piece of evidence is a paper produced by Walsh, found in the possession of one Saint, at Norwich; it is a letter addressed to Mr. Charles Corbell, by St. Mary's Church, Norwich, dated the eleventh of January, 1794, signed Thomas Hardy; that letter must be read.

"*London, January 11th*, 1794.

"Fellow Citizens;—I have just received a letter from citizen Margarot at Edinburgh, with some of the Edinburgh Gazetteers, where you will see that citizen Skirving is found guilty, and sentenced for fourteen years transportation to Botany Bay. Margarot's trial comes next, he meets it with great firmness and resolution. I have no time to make my comments on the proceedings, but I think our opponents are cutting their own throats as fast as they can. Now is the time for us to do something worthy of men, the brave defenders of liberty, south of the English channel, are performing wonders, driving their enemies before them like chaff before the whirlwind. Margarot tells me that he has not time to write to you just now, but he hopes to have time very soon, when his trial is over, and immured in a prison. The London Corresponding Society is to have a general meeting, and an anniversary dinner on Monday the 20th instant at the Globe tavern, Strand. I have sent you some of Margarot's and Skirving's indictment, with two copies of a pamphlet on brewing; he is a member of our society, the author; if you approve of it, you may put it in practice, and be a great saving to many families, also a diminution of the revenue, for every one brewing their own beer pay no duty for it, excuse haste; I still remain, &c. (Signed) THO. HARDY."

The material passage in this letter is this—"Now is the time for us to do something worthy of men;" and then by way of some explanation of what that something should be, he goes on to say, "the brave defenders of liberty, south of the English Channel, are performing wonders, driving their enemies before them, like chaff before the whirlwind." Now whether he means to drive the enemies before him, as the defenders of liberty did on the south of the English Channel, or no, you must collect; he does not tell us what it is that he means should be done. There is a passage in the latter part of it, which is only a stroke of malignity, and not worth paying any attention to, that is recommending a method of brewing beer that will operate two ways—to save his friends money, and to be a diminution of the revenue.

Walsh then produced another paper, dated the twenty-eighth of January, from Hardy, to a person in St. Mary's, Norwich, in which there are passages of pretty much the same nature with the last; that must be read.

[*Vide* p. 202 of this Volume.]

Gentlemen, we return to the proceedings of the Constitutional Society. Upon the seventh of February, 1794, Mr. Horne Tooke being present, it was moved, that a circular letter should be sent to each member, with a statement of the case of Sinclair, in order to solicit a subscription for him. Maclean produced a paper found at Adams's, and it appears by Mr. Woodfall's evidence, that this, which is a rough draft of the resolution, has Mr. Tooke's hand to parts of it, and it was moved by Mr. Tooke; the letter is signed John Horne Tooke; it must be read.

[*Vide* p. 204 of this Volume.]

Gentlemen, observations upon this letter are made to you on both sides. On the part of the prosecution, they state, that this unqualified approbation of Mr. Sinclair's conduct, brings home to Mr. Horne Tooke all the proceedings in Scotland—imports his entire assent to these proceedings; and produces a degree of responsibility for them. On the other hand, they say that this is too much to be inferred, because the great object was to solicit a subscription for Sinclair, which subscription might well be solicited, by a person who thought he had suffered, without the person who solicited the subscription approving of all that he had done, which had brought on those sufferings; that I think is hardly to be allowed to be a just observation upon the evidence; because it was not necessary to declare, that he had conducted himself in a manner that was satisfactory to the society, unless they really approved of his conduct; then a farther observation arises upon it, which is, that as far as is to be collected from this letter, the writer of it, and the society who directed it to be written, understood all these proceedings in Scotland, to have had the distinct object in view of a parliamentary reform, and no more; and this letter con-

* Martin's letter is inserted in the Trial of Thomas Hardy, *ante*, Vol. 24, p. 477.

cludes with supposing, that that was, and is, the object which they mean to pursue; whether that is the genuine sense of these persons, or whether it was proper, that the letter should be conceived in these terms, consistent with the general plan of the business then in agitation, is for you to collect, from the whole effect of the evidence. I only state to you how they put the observation on both sides.

Gentlemen, the next piece of evidence is the proceedings of the fourteenth of February, Mr. Horne Tooke being then in the chair; but I think that relates only to this letter, which was then ordered to be signed by the chairman, and printed, and sent to the members of the society. On the seventh of March there was a meeting of the Constitutional Society, Mr. Horne Tooke present, when they read a letter from Sinclair; and they resolved that the sum of twenty guineas be paid to him at Edinburgh; and that the sum of ten pounds, having been paid to Sinclair by Williams, that the secretary repay Williams.

They then read a letter from Margarot to the Norwich Societies, dated the twenty-fourth of November, 1793; which was found upon Saint; in which he gives some history of these Edinburgh proceedings; and it will be proper, I think, that you should hear that read.

[*Vide* p. 206 of this Volume.]

The use they made of this paper was principally to show the nature of this convention; but the circumstance mentioned last, namely, that the greatest hopes were from the country—from Scotland, where the writer then was, may be worthy of observation; because the number of the people, who were supposed to entertain this opinion for parliamentary reform; and to be engaged in these societies, if once brought into action, might be a very considerable body of people; and extremely capable of producing a very great effect upon the government of the country.

The next piece of evidence was a letter of the second of December, from Gerrald and Margarot, to Hardy; which was produced by Gurnell; it relates to a proposition which had been made, for their returning from Scotland as soon as the business of the convention was over; it speaks of the necessity of one or both remaining there; that they were to visit the different societies, and endeavour to connect them all with this society; and that it was therefore of great consequence that they should not be removed, both of them; it speaks of the convention going on with great spirit, and of the resolution that they had come to, that they were to assemble by order of a Secret Committee, in the circumstances that are expressed in the resolution; it speaks of Sinclair as if he was abandoned by his own society. This goes to show, that the constitutional Society did not appear to be very hearty in the business of that delegation.

Gentlemen, the next evidence is a letter found upon Saint, dated Spithead, the tenth of March, 1794, from Margarot to his friends at Norwich. It speaks of the French fleet being out, as a subject of satisfaction; and exhorts them to persevere; and states his own resolution to persevere in the cause they were engaged in.

Then Maclean produces a paper found at Adams's dated the twenty-sixth of May, 1797, but probably it means 1798; it is a letter from Ashton, who was secretary to the Sheffield Society, to Adams, in answer to a letter of Adams's, written upon the third of that month; it speaks of the Society for Constitutional Information having accepted twelve members from Sheffield, to be associated to them; it congratulates the Society on their enlightening the minds of the people; it states their number to be increased to two thousand four hundred; if you recollect the evidence, it is, that they at no time exceeded six hundred, and a fraction; he expresses himself, and his society, to be dissatisfied with the conduct of the Society of the Friends of the People, at Free Masons tavern; and particularly dissatisfied with their answer to the Constitutional Society; it speaks of their having themselves written a letter to the Friends of the People; and that they had had no answer as yet; but that they had received a packet from the Friends of the People; that they had also had a packet from the Friends of the People in Southwark, which they approved of; probably that was a packet, containing that declaration, which had those exceptionable words in it of representative government; it speaks of correspondences with Manchester, Birmingham, and other places; and expresses the hopes the writer entertains, that those places may now become useful to the cause. Mr. Woodfall states, that there is a word interlined in that letter, which is of Mr. Horne Tooke's hand-writing; but it is only the word *from*; and the observation which it occurs to me to make upon it is, that the paper being in the hands of the person who would have received it in the regular course, without Mr. Horne Tooke's interference, and the correction, being in a particular expression grammatically inaccurate, which perhaps Mr. Horne Tooke's correct ear or eye could not bear, I think it is very likely, that this alteration of the word *from* might have been made by Mr. Tooke, after the letter had got into the hands of Adams; and that he had been amusing himself with making better English of it than it was before; beyond which it does not appear to me that any observation can fairly be pressed against Mr. Tooke.

Lauzun then produced a paper found at Hardy's of the fourth of March, 1793; which is a draft of a letter from the London Corresponding Society, upon the subject of petitioning parliament; he expresses himself as conveying the sense of that society; 'that it would not produce a reform; but that if every

town would take a part in it, still they should gain ground; this paper will be read to you.

"*4th March*, 1793.

"Sir;—The London Corresponding Society have at present to acknowledge your last, and to answer more fully your preceding letter.

"With regard to petitioning parliament, we are unanimous in the opinion that such a petition will not produce a reform; yet, from many considerations, we are now persuaded that, if every society in the island will send forward a petition, we shall ultimately gain ground; for as much as it will force the present members of the senate to repeatedly discuss the subject, and their deliberations printed in the different newspapers, will most naturally awaken the public mind towards the object of our pursuit. The nation once informed that a reform in parliament is sought for from different quarters, gives rise to debates in the House of Commons, and is acknowledged by every rank to be wanting, will begin to exercise their own reason on this subject; arrived at that period, we presume our business will be nearly accomplished.

"Let us then closely follow up our Nottingham brethren; let every society petition separately; let every week furnish a fresh petition, and afford a fresh debate. We seek to open the eyes of the public; petitions on our part, and rejections on the part of the ministry, will effectually do it; we therefore highly approve of your idea, and will ourselves follow it up, and recommend it to all the other societies we correspond with; and, withal, we recommend to you that no time be lost in so doing.

"With you, we lament the evils of an imprudent and inconsiderate war—a war rather eagerly sought for the advancement of private ends, then carefully deprecated from considerations of public good; a contest unfavourable to this country, whether either France or despotism gain the upper hand. We join with you in gratitude to those worthy members of either House who have endeavoured to avert this national calamity, to whom we have likewise returned our public thanks; and we remain, with sincerity and affection,—your friends and fellow-labourers,

"———— ————"

No signature.

Addressed "Mr. William Camage, Sheffield."

The next is a paper, dated the tenth of June, 1793, signed by Margarot and Hardy, directed to one Kilminster, the secretary to the Birmingham Society; it speaks of the satisfaction the society have, in receiving a letter from Birmingham, which was not understood to be so well affected to them; and there is one expression in it, for which it must be read, that the Neros would be forced to yield to the just demand of a long and sore oppressed people.

"*10th June*, 1793.

"Sir;—It is with singular satisfaction the committee of the London Corresponding Society received your letter; they are very glad to see the spirit of freedom springing up in Birmingham; and they make no doubt but that the zeal of your society, and the increase of your numbers, will soon do away the stigma thrown on your town by the unjustifiable behaviour of a church and king mob. We are entirely of your opinion with regard to the necessity of a general union; and we believe, as you do, that when once the country shall have so united, the Neros of the day will be forced to yield to the just demand of a long and sore oppressed people.

"With pleasure we accept your proffered correspondence, and earnestly beg of you to let us hear from your society by every opportunity. We wish likewise you would point out to us some safe mode of conveyance for such informations and publications as we may think necessary to be transmitted to you. The post we no ways rely on, as many of our letters have already been intercepted.

"If any of the members of your society should have occasion to visit this metropolis, we hope you will not let him come without a letter from you, and that while they stay here they will frequently assist at the meetings of our several divisions, and by thus associating, commence an union which we hope soon to see spread itself all over Britain.

"We will not enter into a detail of our grievances; we are equally well informed thereon, and all alike thoroughly convinced, that nothing short of annual parliaments and universal suffrage can restore to us that degree of civil liberty we are justly entitled to, &c. &c.

"M. M.——c.
"T. H.——s.

"To Mr. T. Kilminster, secretary to the Birmingham Society for Constitutional Information."

They next read a letter from Hardy, dated the 5th of October, 1793, which was found among Skirving's papers, at Edinburgh; it proposes to him, to recommend to the London Corresponding Society, to send delegates to the British Convention at Edinburgh; it states that he had communicated the idea of the British Convention to Margarot, who very much approved of it; but that he had mentioned it to nobody else; he wished Skirving to write an official letter to the society; but to take no notice of the letter which Hardy had writen to him; and he had no doubt but that delegates would be sent. This was a very material letter in the former trial; nothing now turns upon the manner and

style of it; but it seems probable, that the occasion of the delegates being sent from England was, the original application to the London Corresponding Society, from Scotland, through the interference of Hardy.

They then read a paper, found upon Skirving, purporting to be a certificate of Margarot's and Gerrald's delegation. The only material circumstance is, that the certificate expresses that they are delegates to this convention, for the purpose of obtaining a reform in the parliamentary representation of the people of Great Britain; which, upon the face of it does not appear objectionable.

Upon the eighth of November, 1793, at a meeting of the London Constitutional Society, Mr. Tooke being present, letters were read from the societies at Sheffield, Leeds, and Birmingham, in answer to the secretary's letter, of the twenty-eighth of last month; these were found among Adams's papers. The Sheffield letter will be read to you.

[*Vide* p. 212 of this Volume.]

They read then the proceedings of the Convention in Scotland, in order to show, that this Matthew Campbell Brown had acted as a delegate from Leeds, and it did appear, by these proceedings, that he had so acted.

They then produce a letter found upon Adams, from the Leeds Society, dated the fifth of November, 1793, expressing their satisfaction at hearing that the Constitutional Society had sent delegates: there seems to be nothing more in that letter, and therefore it need not be read.

Mr. Walsh then produced, from among Saint's papers, at Norwich, a letter, dated the twenty-third of November, 1793, from Hardy, to the Norwich society; it speaks of the London Corresponding Society having been informed of the convention, and their having sent delegates to it, and of the Constitutional Society also having sent delegates, that this measure had diffused spirit and resolution through the societies in Scotland, and that there was a prospect of an entire union; it also states the expectations of the society, that those to whom he was addressing himself would join in this "grand federation;" and, I think, it was more for the sake of that word than any thing else very material, that this was read.

On the sixth of December, 1793, there was a meeting of the Constitutional Society, at which Mr. Horne Tooke was present. They read a letter from Sinclair, their delegate to the convention at Edinburgh, dated the seventh of November, and another dated the twelfth of November: they resolved that there should be a general meeting called the second Friday in January, for the purpose of considering the important letters received from Sinclair; a committee was appointed to correspond with him. Mr. Horne Tooke was not one of that committee.

Maclean then produced from Adams's papers a letter from Sinclair to Adams, dated the seventh of November, 1793; it speaks of his acting in union with the delegates of the London Corresponding Society, and it speaks of the fears of the boroughmongers being greater there than in England; and it says, if there were twenty delegates to come from England, it would produce three times the number from thence; these expressions. "fears of the "boroughmongers," rather seem to favour the idea of its being a parliamentary reform in the House of Commons, that these people were pursuing, because that would more immediately affect borpughmongers than any body else. It is not very easy to reconcile this expression with a reform of another nature, in which all consideration of boroughs would, as it should seem, be out of the case.

They then read a letter from Sinclair, addressed to the Constitutional Society, of the twelfth of November, 1793, which desires that society to appoint a secret and select committee, to receive communications from him, with power to answer his letters: it speaks of his being upon his post at Edinburgh, and desires that the publications of the society may be sent down to him. This has a more serious aspect, because, desiring a secret and select committee to be appointed to receive his communications, looks as if something very secret and select was to be communicated, not coming within the notion of the proceedings of delegates, appointed to procure parliamentary reform, in any regular course.

The next is a letter from Skirving, which purports to be a circular letter, which was found in the hands of Adams; it informs the persons to whom it was sent, that delegates had arrived at Edinburgh, from London; that delegates from the other societies in England were then upon the road, and would soon also be there, to wait upon the Friends of the People, to establish an indissoluble union between the two countries; and though the delegates had adjourned, after having met upon the first of November, he takes upon him to recall them; and this is a circular letter for that purpose: I think this need not be read.

Gurnell then produced a letter found in Hardy's possession, of the twenty-fourth of January, 1794, from Margarot, in the Tolbooth, to Hardy: he says that letter is to be considered as a private letter, but with liberty to show it to any person where it can be made use of: he says the Sheffield people are more in earnest than the London people: then he mentions one circumstance more material; he says, that armed associations are now set on foot by the rich, why should not the poor do the same. This man was a delegate from Sheffield as well as from London; you recollect the circumstance of the Sheffield pikes breaking out, I think, in the month of March or April; whether this hint has any connexion with the circumstance of the Sheffield pikes, may be worthy of consi-

deration: he speaks vehemently: he asks whether they will stretch forth their necks, like lambs, to the butcher's knife, and will like them bleat under it: this seems to me to be all that arises upon that letter.

They then call one Williams, to prove a paper produced to be of the hand-writing of Thelwall, who is one of the persons upon this committee of correspondence and co-operation, which is the immediate ground-work of the present charge. It is a letter addressed to citizen Jack Vellam; that letter it will be necessary to read.

[*Vide* p. 221 of this Volume.]

Gentlemen, one observation in favour of the prisoner ought to be made upon this letter; it is, that Thelwall's saying that Mr. Tooke partly prepared these resolutions, is not properly evidence to prove that fact against Mr. Horne Tooke; it proves that this man understood it so, and as against him it is evidence, but it does not amount to evidence of the fact against Mr. Tooke.

Upon the twenty-first of March, 1794, there was another meeting of the Constitutional Society, when Mr. Tooke was present; it was then resolved unanimously, to write to the Sheffield Society, to thank them for the proper method which they had appointed for keeping the public fast: it speaks of the anniversary dinner of the Constitutional Society being appointed for the second of May, at the Crown and Anchor; that a person, described by them as "Citizen Wharton," was to take the chair; and that other persons, described as citizens, were to be the stewards. This appears to me to be the first time that the term citizen was used in the Constitutional Society; and it may deserve your attention, Gentlemen, that, upon the twenty-eighth of March, 1794, at a meeting of this society, Mr. Tooke being present, a letter from the London Corresponding Society was entered upon the books, dated the twenty-seventh of March, which transmits the resolution of the London Corresponding Society for a convention: that letter must be read.

March 27th, 1794.

"To the Secretary of the Society for Constitutional Information.

"Citizens;—I am directed, by the London Corresponding Society, to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society, respecting the important measures which the present juncture of affairs seems to require.

"The London Corresponding Society conceives, that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom,—Whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal *as distinguished*, on *our* parts, as the *treachery* of *others*, in the same glorious cause, is *notorious*. The Society for Constitutional Information is therefore required to determine, whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people.—Whether they concur with us in seeing the necessity of *a speedy convention*, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we, at present, labour, and which can only be effectually removed by a full and fair representation of the PEOPLE of Great Britain. The London Corresponding Society cannot but remind their friends, that the present crisis demands all the prudence, unanimity, and vigour, that ever may or can be exerted by MEN *and Britons;* nor do they doubt, but what manly firmness and constancy will finally, and they believe shortly, TERMINATE in the full accomplishment of all their wishes. I am, fellow citizen (in my humble measure), a friend to the rights of man,

(Signed) "T. HARDY, secretary."

"Resolved unanimously, 1st, That dear as JUSTICE and LIBERTY are to Britons, yet the value of them is comparatively small, without a dependence on their permanency; and there can be no security for the continuance of any *Right*, but in EQUAL LAWS.

"2nd, That equal laws can never be expected, but by a full and fair representation of the people.—To obtain which, in the way pointed out by the constitution, has been and is the sole object of this society.—For this we are ready to hazard every thing; and never, but with our lives, will we relinquish an object which involves the happiness, or even the political existence of ourselves and posterity.

"3rd, That it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have *been* wrested from us, and of which scarcely a vestige remains; there ought to be *immediately* a CONVENTION of the PEOPLE, by delegates, deputed for that purpose, from the different societies of the *Friends* of *Freedom*, assembled in the various parts of this nation. And we pledge ourselves to the public, to pursue every legal method speedily to accomplish so desirable a purpose.

"P. S. I have to inform you, that a general meeting of the society will be holden on Monday, the 14th of April, the place to be announced by public advertisement.

"Resolved, That it is fit and proper, and the duty of this society, to send an answer to the London Corresponding Society.

"Ordered, That the secretary acquaint the London Corresponding Society, that we have received their communication, and heartily concur with them in the objects they have in view: and that, for the purpose of a more speedy and effectual co-operation, we invite them to send to this society, next Friday evening, a delegation of some of their members."

The next was a paper found upon Adams, a letter from Hardy, transmitting the names of five persons appointed to hold a conference with the members of the Constitutional Society, namely Moore, Baxter, Thelwall, Hodgson, and Lovett.

At a meeting of the Constitutional Society, upon the fourth of April, 1794, at which Mr. Tooke appears by the books to have been present, that letter was read, and a committee of correspondence was appointed, of which Mr. Tooke was one, to meet those persons appointed from the Corresponding Society.

Upon the eleventh of April, 1794, at a meeting, when Mr. Tooke was also stated upon the book to be present, and also Hardy, there is a report of the result of that conference made by Mr. Joyce: that report must be read.

"Mr. Joyce made the report of the meeting of the delegates of the London Corresponding Society, for the purpose of this society co-operating with the London Corresponding Society, and that they had come to the following resolutions:

"1st, Resolved, That it appears to this committee very desirable that a general meeting or convention of the friends of liberty, should be called for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people.

"2nd, Resolved, That it is recommended to the Society for Constitutional Information, and the London Corresponding Society, to institute a regular and pressing correspondence with all those parts of the country where such measures may be likely to be promoted, not only to instigate the societies already formed, but to endeavour also to produce such other associations as may farther the general object.

"3rd, Resolved, That it appears to this committee, that the general object will be much promoted, if a standing committee of co-operation between the two societies were established, for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorized by their respective societies to act with such committees."

"Read the following letter from the Secretary to the London Corresponding Society.

"*April* 10, 1794.

"Citizen;—I am ordered by the committee of delegates of the London Corresponding Society, to inform the Society for Constitutional Information, that they approve of the resolutions of the committee of conference.

"Therefore, the London Corresponding Society have chosen Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, and John Lovett, to put in practice immediately the second and third resolutions of that committee.

(Signed) "THOMAS HARDY, secretary.

"D. Adams, secretary to the Society for Constitutional Information."

"Resolved, That the report of the committee of delegates from the London Corresponding Society, and of this society, be entered in the books of this society.

"1st, Resolved, That it appears to this society very desirable, that a general meeting of the friends of liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people.

"2nd, Resolved, That it appears to this society, that the general object will be much promoted if a standing committee of co-operation were established, for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorised by their respective societies to act with committees.

"3rd, Resolved, That the committee of correspondence already appointed by this society, be the committee for co-operation and communication with the committees of other societies.

"Ordered, That the secretary be desired to send a letter to the London Corresponding Society, acquainting them with the members of this society appointed to confer with them.

"Resolved, That Mr. Joyce be requested to accept of the office of secretary of the committee of correspondence.

"Mr. Joyce being present, accepted of the said office."

Gentlemen, you will recollect, that upon the evidence of Mr. Adams, it seemed to be proved, that though Mr. Horne Tooke's name is set down as if he had been present at the appointment of the Committee of Correspondence, and also present at the time of the report of the result of the conference, that in fact it was a mistake, for he was not present: that he went away. Upon the part of the prosecution, in order to fix upon Mr. Horne Tooke the knowledge of, and assent to these measures, whether he was actually present, at the time that they appear to have passed, or was not present, they produce from Adams's papers, a paper which Mr. Woodfall proves to

have Mr. Tooke's hand-writing to it in several places, which purports to be a minute of the resolution, as it was delivered in by Mr. Joyce, and to have certain alterations made in it, by means of drawing a circle round particular words, which adapted it to the state in which it appeared on the books of the society, as a resolution of the society: and if that is satisfactorily proved to you, undoubtedly that paper, having so much of Mr. Horne Tooke's hand-writing in it, is evidence of his knowledge, of his participation, and of his consent to the measure, whether he actually was present, or was not present: that paper was handed to you at the time it was read, therefore it can hardly be necessary to have it read again.

Mr. Maclean then produced from among Adams's papers, a paper which Grant proves to be of Hardy's hand-writing. This is only to confirm, and to strengthen, this part of the evidence of the transactions between the two societies, upon the fourth, and upon the eleventh of April, and upon the twenty-eighth of March: this is Hardy's letter to Adams upon the subject, which was entered upon the eleventh of April, and which has been read to you.

They then produce from among papers in the possession of Saint, at Norwich, a paper signed "Thomas Hardy," which purports to be a circular letter, and they produced a bundle of these papers, also purporting to be circular letters found at Hardy's house: that circular letter it will be proper to read.

"Citizens!—The critical moment is arrived, and Britons must either assert with zeal and firmness their claims to liberty, or yield without resistance, to the chains that ministerial usurpation is forging for them. Will you co-operate with us in the only peaceable measure that now presents itself with any prospect of success? We need not intimate to you, that notwithstanding the unparalleled audacity of a corrupt and overbearing faction, which at present tramples on the rights and liberties of the people, our meetings cannot in England be interrupted without the previous adoption of a convention bill, a measure it is our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared, while it is yet in our power, so as to guide and direct the future operations of the friends to freedom. Rouse then to one exertion more; and let us show our consciousness of this important truth: 'If we are to be 'beaten down with threats, prosecutions, 'and illegal sentences, we are unworthy—'we are incapable of liberty.' We must, however, be expeditious: Hessians and Austrians are already among us! and, if we tamely submit, a cloud of these armed barbarians may shortly be poured in upon us: let us form then another British Convention; we have a central situation in our view, which we believe would be most convenient for the whole island: but which we forbear to mention (intreating your confidence in this particular) till we have the answer of the societies with which we are in correspondence. Let us have your answer then, by the 20th at farthest—earlier, if possible, whether you approve of the measure, and how many delegates you can send, with the number also, if possible, of your societies.—We remain yours, in civic affection the London Corresponding Society.

THOMAS HARDY, secretary.

"For the management of this business we have appointed a secret committee; you will judge how far it is necessary for you to do the same."

Gentlemen, it is to be observed upon this circular letter, that the language of it is, as if the Convention that was to be held, was to be a peaceable measure, for he speaks of it as the only peaceable measure, that now presents itself with any prospect of success. He certainly accompanies this peaceable measure, with an introduction which supposes a great deal of violence to be resisted, some way or other, by those persons who were to meet in this manner; for it says, that "Hessians and Austrians are coming among us; if we tamely submit, a cloud of these armed barbarians may shortly be poured in upon us." What a peaceable convention was to do in such a case one does not readily see. With regard to the manner of conducting of it, the affectation of secrecy, and recommending a secret committee to them likewise, gives the measure an air of great importance, and necessarily tends to create a certain degree of suspicion; how much, you will judge of from the general context of the evidence. It appears, by papers found upon Hardy, that this circular letter had been issued; the date of it does not appear; I suppose they were filled up as they were sent. It appears that there was a letter of the ninth of April, 1794, from Alexander Mitchell, dated Strathaven, addressed to Hardy, which purports to be an answer to this circular letter; it speaks of their agreeing for their societies to appoint a delegate, and that they had appointed a secret committee to conduct the business.—Plainly with reference to the contents of that circular letter.

Walsh produced a letter, found at Saint's at Norwich, dated the twenty-fourth of February, 1794, which purports to be an account of a general meeting of the delegates at Norwich, and a resolution to send delegates to this convention.

Gurnell then produced, from among Hardy's papers, a letter from Cockburn, of Bristol, to Hardy; and he approved of this Convention.

They then read a letter from Newcastle-upon-Tyne to Hardy, of the twenty-fourth

of April, 1794. It speaks there of the rise of their societies—of their having aristocratic magistrates, who interrupted them: it then says, that the writer hopes "that the hydra of tyranny and imposition may soon fall under the guillotine of truth and reason." To this letter there is an answer, which is in evidence, directed as the letter desired it might be directed: that answer it will be proper to read, as well for the other contents, because it echoes back that expression—hoping that the hydra of tyranny and imposition may soon fall under the guillotine of truth and reason.

"1*st May*, 1794.

"Citizen;—It is with pleasure the London Corresponding Society hear that a society on a similar plan, and with the same patriotic objects in view, is likely to be established at Newcastle-upon-Tyne. If ever a crisis arrived that required the exertions of the people to stop the torrent of corruption, infamy, and despotism that seems likely to overwhelm them, it is the present. In God's name, then, let us use these exertions. We are called upon by every thing that is dear to us, as men and as Christians. The cause of truth and liberty must finally be omnipotent; therefore doubt not that the glorious reign of liberty and equality will ere long be established; and modern governments, with every appendage of wickedness and corruption, will flee, in time, from their genial influence, as beasts of prey to their dens of rapine and darkness from the rising sun. The London Corresponding Society have beheld with indignation the rapid advances of despotism in Britain, and are ready cordially to unite with every other society in the three kingdoms, who have for their object a full and effectual representation of the people; they therefore have deputed six of their members to meet six of the members of the Society for Constitutional Information, to form a committee of correspondence and co-operation. This committee meets regularly twice a week, at No. 2, Beaufort Buildings, Strand, where any member delegated by your society will meet with every information required. We inclose you a few of our resolutions entered into at our general meeting, on the 14th of April, which will be sufficiently explanatory of our sentiments and views. We heartily unite with you in wishing that the hydra of tyranny and imposition may soon fall under the guillotine of truth and reason."

The next piece of evidence is a paper taken from the person of Thelwall, which imports to be a letter from Broomhead, of Sheffield, to Hardy; how it came into the hands of Thelwall is difficult to be collected. It speaks of there having been a meeting at Halifax in the open air—of there having been a meeting *in which it was proposed* that there should be delegates, to consider of measures for holding a convention; but that this meeting had been postponed, till they could have the opinion of Hardy.

The account book of the Society for Constitutional Information was produced; and it appears that there was paid, by order, to Thelwall, six guineas, upon the thirteenth of March: the occasion of that payment appears by a paper found on Adams, which is a letter from Thelwall to Adams: the paper begins—"Citizen Adams;" in which he desires, as from Mr. Horne Tooke, to have a list of the Constitutional Society; and also, at the request of the same person, he desires that six guineas may be paid to him for printing the last twenty-five hundred addresses; and which six guineas seem to have been paid.—From the date, this was probably, the address voted at the Globe tavern upon the twentieth of January.

Lauzun then produced a book, found at Hardy's, intituled, "The Fast Day, as observed at Sheffield." It appears by the book, that the Constitutional Society had approved of the resolutions of the Sheffield Society upon the twenty-first of March; and it also appears that the Corresponding Society had approved of the proceedings that were read to you before, and the manner in which that day had been employed. I believe that book was read; it can hardly be necessary to read the whole of it again; the lecture, in particular, may be omitted; it was a very indecent comparison of the sins of Ahab with our sins, and it does not lead very particularly to throw light upon the present subject, and therefore the reading of it may as well be spared; but the resolutions must be read.

"Resolved unanimously,

"1. That War, the wretched artifice of Courts, is a System of Rapine and Blood, unworthy of rational beings, and utterly repugnant to the mild and benevolent principles of the Christian Religion.

"2. That if the present war, be a war of combined kings against the people of France, to overthrow that Liberty which they are struggling to establish, it is, in our opinion, a war of the most diabolical kind.

"3. That when public Fasts and Humiliations are ordered with the same breath, which commands the shedding of oceans of Human Blood—however they may answer the purposes of State Policy—they are solemn prostitutions of Religion.

"4. That the landing of Hessian troops in this country (a ferocious and unprincipled horde of Butchers) without consent of parliament, has a suspicious and alarming appearance, is contrary to the spirit of our Constitution, and deserving of the marked indignation of every Englishman.

"5. That it is high time to be upon our *Guard*, since these armed monsters may in a moment be let loose upon us; particu-

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larly, as the erection of barracks throughout the kingdom may only have been an introductory measure to the filling them with Foreign Mercenaries.

"6. That the high and free-born minds of Britons, revolt at the idea of such a Slavish System, and cannot be so far broken, as to kiss the hand which would chain them to its will.

"7. That Peace and Liberty are the offspring of Heaven, and that *Life* without them is a burden.

"8. That the Thanks of this Meeting are due to Earl Stanhope, for his motion and spirited Speech for acknowledging the French Republic, and restoring *Peace* to our distressed country; for his motions and able Speech in behalf of the persecuted and suffering patriots, Messrs. Muir, Palmer, Skirving, and Margarot, in which he nobly stood alone; and also for the whole of his truly animated and benevolent exertions in support of the injured *Rights of the People.*

"9. The Thanks of this Meeting are also due to Mr. Sheridan, for his nervous and eloquent Speeches in the cause of injured Patriotism, and in support of the Constitution; and also to every other Member of Parliament who has nobly stood forward at this important crisis, in support of the Constitutional Liberties of Englishmen.

"10. That if any thing had been necessary to have convinced us of the total inefficacy of argument against a Ministerial Majority, the decisions which have lately taken place in Parliament, would have fully confirmed our opinion.

"11. That therefore the people have no remedy for their grievances, but a REFORM IN PARLIAMENT—a measure which we determine never to relinquish, though we follow our Brethren in the same glorious Cause to *Botany Bay.*

W. CAMAGE, Chairman."

"LONDON CORRESPONDING SOCIETY.

"UNITED FOR A REFORM IN PARLIAMENT.

"*Committee Room, March* 20, 1794.

"RESOLVED, That the Society approve the sentiments contained in the Serious Lecture delivered to the CONSTITUTIONAL SOCIETY at SHEFFIELD, on the 28th of last month—and earnestly recommend it to the perusal of all who think CIVIL and RELIGIOUS LIBERTY a blessing.

"Resolved, That the Commanding a *General Fast*, for the purpose of imploring the Divine Father of *Mercy* and *Peace* to support and prosper us in the *horrid act* of deliberately *destroying* our fellow-creatures, is repugnant to the true spirit and principles of Christianity, where we are commanded to *pray* for our enemies, &c. And further considering that a great part of the PEOPLE are unacquainted with the nature of the *present* WAR, either as to its *justice* or *necessity* (every endeavour being used to keep them ignorant of the *real* principles and design for which it was commenced) to *approach* and to *supplicate* the OMNISCIENT POWER, under such circumstances, and for such a purpose, must indeed be dreadful, since knowledge and conviction are wanting.—The *worse* than hypocritical hearts of *those* who are the *Authors* of such a measure—although they at present impose upon the ignorant and credulous, by such detestable, such pretended show of devotion—cannot escape the chastisement of that *Power*, whom they thus insult, and from whose judgment there is no appeal.

"T. HARDY, secretary."

"SOCIETY FOR CONSTITUTIONAL INFORMATION.

"*March* 21*st*, 1794.

"RESOLVED, That the Secretary of this Society be directed to write to the FRIENDS OF PEACE AND REFORM AT SHEFFIELD; and to assure *them*, that this Society views with pleasure, their steady exertions to obtain a fair Representation of the PEOPLE of Great Britain in parliament; and the proper methods which they have taken to employ *usefully* those days which may be appointed for Public Fasts. D. ADAMS, secretary."

They then call William Broomhead, who said he is a member of the Sheffield Society; that he was secretary for the last five months before he was apprehended; he said he knew Mr. Yorke, who was occasionally at Sheffield; he remembered a meeting on the Castle Hill, upon the seventh of April, there had been a previous meeting between himself, Gale, Yorke, and some few others; that at that meeting certain resolutions were drawn up, and it was settled that there should be a motion to petition parliament, which was to be negatived, and he was ordered to make the motion accordingly; he did make it, nobody seconded it, and so it fell; he could not say that the people, when it was moved, said any thing for or against it, for that the people at such meetings generally wait for the countenance of their leaders; he says Yorke made a speech. When the witness had gone thus far, they produced a paper found upon Adams by Maclean, which was shown to the witness and he said that this paper was one of the number of printed papers which he had sent up in a box to Hardy; he said he might perhaps send some also to Adams, for any thing he knew, but he did remember very well sending up papers to Hardy; that paper contained the proceedings on the Castle Hill. That must be read.

" Proceedings of the Public Meeting.

" In pursuance of a public advertisement, a general meeting of the Friends of Justice, Liberty, and Humanity, was held, at three o'clock on Monday, the 7th of April, 1794, on the Castle-hill, in Sheffield, to consider upon the propriety of addressing the king, in behalf of the persecuted patriots, citizens Muir, Palmer, Skirving, Margarot, and Gerrald; also of again petitioning the House of Commons for a reform in the representation of the people, and to determine upon the propriety of petitioning the king, for the total and unqualified abolition of negro slavery

" Notwithstanding the inclemency of the weather (very severe rains having fallen until within a quarter of an hour of the appointed time of meeting), from ten to twelve thousand people were assembled on the occasion.

" HENRY YORKE having been voted to the Chair,

" The business was opened by reading the following Address to the king, in behalf of the suffering patriots:

" TO THE KING.

" An Address from the Inhabitants of the Town and Neighbourhood of Sheffield, in the County of York.

" SIRE;—We, the undersigned, being warm friends of liberty and the rights of man, feel ourselves deeply affected by the sentences which have lately been passed in your majesty's courts of Scotland, upon citizens Muir, Palmer, Skirving, Margarot, and Gerrald.

" Had these men been really guilty of *crimes*, their punishment should doubtless have been proportionate to their offences; but, so far from considering it as a crime for a man to use every constitutional means in his power to effect a reform in the Commons House of Parliament, we think that every man who thus exerts himself, deserves well of his country; since we are persuaded that nothing short of the accomplishment of such a reform will restore peace and happiness to our present aggrieved and injured nation.

" We trusted also, that your majesty entertained the same opinion with us of such exalted conduct, from your majesty's having chosen for your most confidential servants in the state, men who had singularly distinguished themselves by their patriotic exertions in the cause of parliamentary reform:

" But the friends of these sufferers having brought their case before parliament, without producing the desired effect—the principal of these very servants of your majesty having opposed the measure with *all his corrupt, but* irresistible influence—seeing no other resource, we approach your majesty in this address, to intreat your majesty to interfere in behalf of these (whom we deem) *innocent* men, with that power which the British constitution has placed in your majesty, of pardoning whom your majesty pleases—a privilege which is sometimes graciously extended even to real and palpable criminals.

" Let it not be recorded in the history of this country, that king George 3rd, or any of his judges, transported men for fourteen years, because they had dared to speak the same words upon a speculative subject, which, if they were not the immediate means of advancing his majesty's then prime minister to his high situation, caused his election to be remarkably popular: let it not be said, that men of education, of refined sentiments, of the most virtuous and benevolent characters, were severed from their dearest connexions, and plunged into dungeons with thieves and prostitutes; let it not be said, that fathers were torn from their wives and children, and sons from their aged parents, because they had the virtue openly to condemn the acknowledged corruptions of government, and to exert every peaceable means in their power to remove them: let it not be said, that it was as great a crime to speak the TRUTH, as to be guilty of FELONY.

" But rather, O king, let it be recorded, that George 3rd had the wisdom, the humanity, and the justice, to step in betwixt these severe and cruel sentences and their execution.

" These are our desires—these our plain sentiments. We know they are such as your majesty is unaccustomed to hear; but, if they are supported by truth and reason, suffer not the homeliness of our manner to offend your majesty. We are plain men, and will not flatter a king. If our wishes be attended to, we are persuaded it will, in some good degree, hush the murmurs which unreasonable severity in a government never fails to excite; and it may also avert that *storm*, which it is but too evident has long been awfully gathering, and which may burst forth in a moment when your majesty thinks not."

" The address being read, and received with repeated applauses, HENRY YORKE addressed the meeting in support of the measure. He observed, that the cause for which our countrymen were now suffering, was the same as had been advocated in the year 1763, by Mr. Pitt, the duke of Richmond, and other men, who were at this time pensioners and placemen under the actual government: that a convention, for the purpose of obtaining a parliamentary reform, had been held at the Thatched House Tavern, in which these men went as delegates, or acted as assistants; that it

was cruel, if not unjust, to punish men for following the example which those in power had set them. The question was not a question of *convenience*, but of *right*.—It was not enough to say, that the people were *formerly* represented, but that they had a *right* to be represented *now*. Did the ministry, therefore, mean to assert, that what was right to-day, was wrong to-morrow? Did they mean to declare, in the face of the world, that what was in conformity to the maxims of justice at that time, should, in so short a space, be deemed *unjust*, and punished as a *crime*?

"After having expatiated considerably on this very important subject, he proceeded with observing, that in all countries where severe and sanguinary punishments were encouraged, men could have no affection for the government under which they lived, and their obedience to it could result solely from motives of *fear*. That liberty of opinion could not be denied to any free country, without denying at the same time the rights of the people. That nothing argued more strongly against a government than the uniform design of depriving the people of this liberty; that it was a proof that something *went wrong*; and that even governors were ashamed of their conduct, when the right of discussion was violated or put an end to. The civil liberty we enjoyed in our country was the effect of political discussion; and its political liberty would have long since been restored and secured, if our rulers had not interposed to weaken or annihilate this right: first, by giving a power of decision to judges, which the ancient law of the land did not acknowledge: secondly, by confounding the truth with the fact of publication: and, thirdly, by having punished with the utmost severity libels in private cases, to prepare the public mind for those severe sentences in public ones, which dishonoured and irritated the nation. It had been lately the fashion to confound government with the constitution, and the ministry with the government. To oppose, therefore, the mad and wild, if not criminal schemes of administration, was to oppose government, and, by this mode of reasoning, to oppose government was to be an enemy to the constitution. A government can never give a more authentic proof of its propension to tyranny, and of the impropriety, as well as impolicy of its measures, than by restraining or forbidding the liberty of discussing publicly matters of legislation and policy. It is debasing the character of man, as an intellectual being, to deny him the right of inquiring into that which even governors allow was made for his use, namely, government.

"To punish inquiry, severity is exercised for imaginary guilt. But what is the effect? Mischief is prolific: violence in government begets resentment in the people, who murmur and exclaim: government is provoked, and studies vengeance. When one act of vengeance is exposed, more always follow. Affection is lost on both sides, and, what is worse, is irrecoverable. Hatred begins; and the government and the people being at variance, consider each other no longer as magistrate and subject, but as mutual enemies. Hence the inhuman wish of Caligula, that he could murder all the people at one blow. The sequel is in order: he is continually destroying them; they are continually wishing him destroyed. Such conduct had the fatal tendency of cramping the genius of men, and of replunging the nation into a state of barbarism with regard to their religion, their laws, their morals, and their government, and to keep them ignorant of the most important concerns in their trade, their splendour, their felicity; whilst all the nations around them were improving themselves in morals and policy, by the daring efforts and concurrence of enlightened men, whose views were directed to those objects alone which were really worth their attention. The reasoning of a government, which prohibits information, is defective in every particular; its progress is not to be stopped, nor even to be checked, without manifest disadvantage. Prohibition has no other effect than to irritate men; to inspire them with an idea of insurrection, and to give to all their writings a libellous tendency. Severe and arbitrary sentences may *intimidate*, but they cannot *convince* a nation. It is by reason and argument alone, opposed to apparent reason and apparent argument, that a government can hope to be victorious over its internal enemies, or render itself permanent by the quiet and conscientious concurrence of all its citizens. It is doing too much honour to innocent subjects to be alarmed at a few pages of writing, or at a few fugitive orations, when barracks are erected in a country, and 60,000 armed mercenaries are ready to execute the mandates of government. Experience had proved, that the rigorous prosecutions which had lately taken place throughout England, and that the cruel sentences which had disgraced the capital of Scotland, had not answered the purpose of establishing arbitrary power, and of crushing the rebellion of honest minds. Although there is no spirit so erect and independent as not to be broken by the long continuance of the silent and inglorious sufferings of a gaol; yet it had been found, that men were proud to step forward in this most stormy season, when such terrible examples of legal vengeance had been held up before them, to plead the ancient rights of their country, to unmask the infamy, intrigue, and murderous projects of administration, and, according to

the principles of the purest benevolence, to assert the liberty of the whole human race. The present times bore a strong and marked resemblance to those terrific ages when priests held their dominion over the minds and consciences of men, and when they endeavoured to establish the reign of intolerance and orthodoxy amidst flakes of fire, and streams of human blood. All history had evinced, that every attempt to curb and bridle the expansion of the human mind had been ineffectual; it had evinced, that opinions, though smothered for a time, burst forth with redoubled fury, and were victorious over power; it had evinced the triumph of reason and truth over prejudice and superstition, and that liberty, whether of opinion or person, however slow in its progress, had uniformly moved forward towards its destined goal; and that even, at this moment, the interruptions which had been opposed to it in our own country, although they might be injurious to individuals, would finally obtain, confirm, and establish the rights of the people. Conscious of their uprightness, the friends of freedom had persevered in their noble cause, unappalled by the influence of spies and informers, and by the threats of a corrupt, a crazy, and wicked administration. In so doing, they had acted in perfect conformity to the principles of virtue, without which no man could be a friend to his country, and a lover of mankind. Its essence consisted in the regulation of our conduct by such moral axioms as are best calculated to promote the general happiness of our fellow-creatures; and as it frequently happened, that the happiness of the individual stood in direct opposition to that of the public, it is the perfection of virtue in individuals to sacrifice their own happiness to that of the public. A man in possession of this virtuous principle, feels delight whilst actually burning in the brazen bull of Phalaris; and such, he trusted, was the actuating principle of those generous patriots, who are become willing victims of the most barbarous and savage sentences that ever had been pronounced in Britain; who had made a glorious stand against arbitrary power, and who broke loose from the fondest endearments of human life, in the hope of redeeming their lost country from the fangs of a dark and brooding prejudice, and from the horrors and turpitude of an ignominious slavery.

"It was the tyranny of the British government which drove William Penn, with the philosophic people called Quakers, to the delectable regions of Pennsylvania, where, by toleration, industry, and permanent credit, they revived the simplicity of the primitive ages of society. It was the same tyranny which has driven into voluntary exile, or forced by law into banishment, the most virtuous of men, the first of philosophers, the most exalted and courageous band of patriots that ever honoured the soil of Britain. Among the former Joseph Priestley, one of the most profound philosophers of the age, and most meek and amiable of citizens, claims the sad pre-eminence; and among the latter, stand the names of those persecuted patriots, in whose behalf we are now about to address the executive magistrate of our country—a noble and a generous band, whose sufferings do not claim our pity, because they boil up our rage; whose sentences disgraced those who pronounced them, not those on whom they were pronounced; whose condition is enviable, because honourable, and to the whole of whose opinions and conduct, no good man, or honest citizen, can give one dissentient voice! In times like these, when a man is mocked and insulted, because he bears the name of a patriot, an epithet once honoured by the people of England; at a time when those who have the courage and magnanimity not to flatter their country, are deserted, betrayed, and persecuted, what honours are sufficient for those who thunder truth against tyranny? What disgrace ought not to await those timid beings, those *negative* patriots, who keep aloof from the scene of action, and riot on their country's wrongs? When our nation shall be regenerated, these persecuted men will wear civic crowns. In the political, as in the moral world, the friend who appears to soothe our distressses, excites our esteem; and he who, in calamitous times that try men's souls, sacrifices interest, friends, and home, in order to save his sinking country, merits well, not only of every Briton, but of all mankind, and even of the government under which he lives.

"Fellow Citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there I hope they will for ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of religious and political imposture; and that their decisive and manly conduct will command, in an imperious tone which will take no denial, not a melioration of these enormous abuses, which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature. I ask of our governors, this plain question, is it better that the people should be in a constant state of stupidity, than that they should be sometimes turbulent?—Ministers of state, if ye mean to be wished, suffer the people to write and speak; you

will find men corrupt enough to serve you according to your evil desires, and who will improve you in the art of Sejanus. If you mean to be good, permit them to write, you will find some honest men who will improve you in the art of a Turgot. How many things are ye still ignorant of, before you can become great either in good or in evil? I see no glory, no advantage, no pleasure, no safety, in any man reigning as a sultan over slaves. Such a horrid pre-eminence tarnishes the lustre of the most exalted station. It is, besides, precarious, for sultans are frequently deposed, and vengeance wreaked upon them.

"I need not invite you, fellow citizens, to feel for any human being who suffers, much less need I solicit your approof of the present measure, after the general testimony of satisfaction you have given of it. You are too enlightened to need the aid of any instruction from me, and your understandings are too much awakened to require that your passions should be played upon. Whilst the unerring tribunal of posterity should condemn with scorn and derision, with execration and disgust, those inhuman beings who have been the causes of such unexampled and inhuman severity, our persecuted brethren will obtain a verdict of honour and glory. I may venture to say, that beloved by the present age, future ages shall heap around their monuments trophies of undying fame; and an exasperated and repentant people, shall enroll their names in the volume of history, which records also the names of Sidney, Hampden, and Locke!

"The following Resolutions were then read three times over, and with the exception of one or two persons, were unanimously adopted:

"1. That the people, being the true and only source of government, the freedom of speaking and writing upon any subject, cannot be denied to the members of a free government, without offering the grossest insult to the majesty of the people.

"2. That therefore the condemnation of citizens Muir, Palmer, Skirving, Magarot, and Gerrald, to transportation, for exposing the corruptions of the British government, was an act better suited to the maxims of a despotic than a free government.

"3. That the address which has now been read, be presented to the king, in behalf of the above persecuted patriots.

"On the second resolution being proposed, an hiss was heard from different parts of the meeting, in consequence of one or two persons holding up their hats against it; on observing which, H. Yorke thus addressed the meeting:

"Fellow Citizens;—As your chairman I call you to order. As an individual, I must observe, that this hissing is repugnant to the principle of toleration or freedom, which we wish to see established. We have this moment read, and given our assent to, an address to the king in favour of liberty of opinion; let it not be said, that we are the first to violate that liberty in others, which we claim for ourselves. Opinions will always vary, even amongst the wisest and best of men. We are bound, therefore, to show tenderness to the opinions of others, and compassion even to their prejudices. Let our enemies see that we consecrate by our example, what we desire to see established as a principle. Hisses do not convince; they tend only to irritate the minds, and to beget the ill-will of our fellow citizens: let us, on the contrary, confront them with the weapons of reason and truth, the only logic of liberal minds. Every thing which has a tendency to stir up the passions without awakening the understanding, is unbecoming of freemen, or of men who would be free."

"These well-timed observations had the good effect of preventing any further signs of intolerance; and the utmost decorum prevailed throughout the conduct of the business.

"It was next moved, 'that a *petition* be 'presented to the House of Commons, for 'a reform in the representation of the peo-'ple in parliament;' but so marked was the disapprobation given by the whole meeting to this measure, that not one single person *seconded* the motion; but a most profound silence, interrupted only by a few murmurs, was observed: upon which Henry Yorke again rose, and addressed the meeting in an animated speech of an hour long, and of which it is impossible for us to give our readers a just conception. He took a general view of the British constitution, and stated its most prominent defects; among which the want of a perfect national representation was the most glaring. He dwelt a considerable time upon this subject, and then proceeded to take a rapid survey of the exertions which had been made at different periods, and by different persons, to promote the cause of parliamentary reform.

"He observed that the subject was become a mere bugbear, employed to deceive the people, and worked upon as an engine to raise into power, needy and ambitious men: that the very same men who in opposition had declared that it was the only measure of saving the country from ruin, were the first to reprobate and scout the measure of reform when they were in power. From the corruptions of the British government, parties had been generated, which in their route to power, had convulsed and plundered the empire. Under the distinctions of names, principles had

been forgotten; and for the sake of leaders, whom the people had foolishly idolized, the machine of government rolled on amidst the feuds and contentions of party. Eternally the peace of our country had been disturbed by the rancour and animosities of factions, and the people, instead of turning themselves to correct the gross evils which existed in it, had ever been the tools of base and designing men, and seemed prepared to whet and sharpen their swords one against another.

"It was now high time that the people should lay aside leaders, discard factions and *act for themselves*. He strongly inforced these principles, and then entered into a complete detail of the ancient constitution as established by Alfred, which he proved to be at this time totally defaced, if not lost. He then pursued the gradual decline of popular liberty in England, from the anarchy which was the consequence of Danish and Norman invasion; and taking a general sketch of our history, so far as it was connected with the subject of popular representation, he made some strong and pointed remarks on the Revolution in 1688, the object of which, he said, was not, could not be answered, unless annual parliaments and general suffrage were restored. For this he had the authority of lord Sommers, who drew up the declaration of rights, and who was promoted by William 3rd for his popular exertions at that memorable epoch.

"In order to prove that the Revolution had not corresponded with the expectations of the people, no sooner was the prince of Orange established on the throne of England, than all ideas of the ancient mode of annual parliaments were effaced, and the TRIENNIAL ACT was passed in the very face of that revolution, and in direct contradiction to its principles; for the revolution, at least so far as it respected the people, was not intended to be a compromise between the king and the aristocracy, for the joint inheritance of the people, but to establish on equivocal principles the right of the people to govern themselves, and to recall those delegated powers which they had entrusted to their servants for this purpose, when they were either abused, or neglected to exercise them. If the revolution were not a revolution for the people, it was no revolution at all, but a conspiracy of a few ennobled oppressors against the liberties and happiness of the many. But if it were designed to comprehend the people, and its end has been perverted, or purposely laid aside, the people are not warranted in *petitioning*, but are justified in *demanding as a Right*, agreeably to the tone of language used in a declaration of rights, the restitution of annual parliaments, and the establishment of universal suffrage. But the shock which was given to the stability of these principles, was most infamously flagrant, by the enacting of the SEPTENNIAL ACT, in the reign of George 1st. If the act of parliament in the reign of Henry 6th, erased from the roll of citizenship some of the best members of the community; the enacting of the triennial and septennial acts, filled up to the brim the measure of governmental iniquity, and poured forth the waters of bitterness throughout our land.

"FELLOW CITIZENS;—Enough of precedent. The human race has long been rolling down the tide of ages neglected, unpitied, and oppressed. It is high time that the devious course of human policy should not be left to the uncertain issue of storms and of elemental wars; but that the machine of state should be guided by the polar star of reason alone, which is never seen but when the majesty of the people is resplendent. What is beneficial in the example of ages, we ought to reserve with caution. What is injurious, and what is only *tolerably* competent to answer the common purposes of society, ought to be abolished. We insult ourselves, when we abjectly distrust the powers which nature has given us; nor ought we passively to acquiesce in institutions which, though injurious, may be preferable to those that may be endured by others. We insult ourselves, when we foolishly balance between *tolerable vices* and *positive good*; between unnatural systems, and novel, untried, but just maxims. The human mind is progressive, so is the social mind. That the one therefore should remain stationary, amid the rapid course of the other towards perfection, is a prejudice as unnatural as it is injurious to the happiness of man. The governments of Europe present no delectable symmetry to the contemplation of the philosopher, no enjoyment to the satisfaction of the citizen. A vast, deformed and cheerless structure, the frightful abortion of haste and usurpation, presents to the eye of the beholder no systematic arrangement, no harmonious organization of society. Chance, haste, faction, tyranny, rebellion, massacre, and the hot, inclement action of human passions, have begotten them. Utility never has been the end of their institution, but partial interest has been its fruit. Such abominable and absurd forms, such jarring and dissonant principles, which chance has scattered over the earth, cry aloud for something more natural, more pure, and more calculated to promote the happiness of mankind. Experience must regulate the mechanism of government, by which I mean not a narrow and confined, but a liberal and enlightened experience, which, hearing without passion or prejudice, the testimony of ages and nations, collects from its general principles, to further the progress of civilization. It is

in history that we are to dive for those rich materials of legislative experiment, which are to ameliorate the social order, and repair those breaches which injustice has long since made. But if this experience be found inadequate to the purpose of alleviating human miseries; if it afford nothing but the melancholy prospect of outrageous despotism; of excessive vices on the part of the governing, and debasement and vassalage on that of the governed; if it ascribe the commotions of suffering countries to the designs of factions, and not to principles; if it show, that in consequence of national ignorance, after the first ebullitions of revolt, they have sat down in a torpid calm, and borne with usurpations still heavier than those by which they were roused to arms—it must be granted that this experience is important; because it teaches the suffering nations of the present day, in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce, with effect, that grand political explosion, which, at the same time that it buries despotism, already convulsive and agonising, in ruins, may raise up the people to the dignity and sublime grandeur of freedom.

"To effect this just and useful purpose, *revolution of sentiment* must precede revolution of government and manners. The popular energies must be excited, that the popular voice may be felt and heard. The people must grow wise, in order that the people may rule. It is said we preach anarchy, but what is anarchy but the establishment of confusion on the wreck of popular opinion? It is said we are levellers; but those are levellers who would wish to reduce man to the condition of the brute, guided by passion, and uninfluenced by reason. Those are levellers whose hands are dipped in the public spoils; who assert impunity for crimes, and inviolability of persons; who would make humanity take a retrograde motion; who would palsy the arm of justice, and defeat the end of equal laws. We have ever disclaimed the foolish idea of *levelling property*; because our own property, the fruit of our labour, or of our talents, might, by the example, be exposed to the invasion of the first intruder. It were well, if those who confound justice with crimes, would consider that the poor man's property, little as it is, is as precious to him, as is the wealthy stock of the rich man. It were well, if feeling the force of this principle, the aristocracy would unite with us in the cause in which we are embarked. Property, they say, is sacred. Is not then the property of the poor man as sacred as that of the rich; and ought it to be filched or forced from him without his consent, any more than that of the rich man? Can those who do not respect the property of others, expect others to respect their property? We wish to exalt, not to level. We wish to better the condition of the wretched; to equalize men under the influence of law; but to give to merit, industry, talents, patrimony, virtue, their proper weight and correspondent dignity in the social order. Are we then ungovernable, because we reject mis-government? Are we ungrateful, because we defend our liberty and property against those who ought to respect them? Are we rebels in maintaining our violated laws against those who are open rebels to laws, and who set themselves above those laws which they ought to have venerated? I know, that in all ages of the world, people who would not be oppressed have been reckoned ungovernable by men who are, or who would be oppressors. I know that the enemies of oppression have always been stigmatized as enemies of government. I know that it is seditious to blame the excesses of power, and insolent to mention the insolence of those who abuse power. I know that it is sedition to distinguish between public right and public wrong, between government and tyranny. Nor is it enough to acknowledge all *good* government to be irresistible; but the *worst*, and the abuse of the *best*, must be irresistible also. I know that to complain of tyranny is *faction*, and to throw it off *rebellion*; but they who oppress are the greatest *Rebels*, and for the oppressed to turn upon them, is but to *resist* Rebellion—it is but to do a just and natural action. Whoever violates the laws of reason, equity, and nature, whatever station or name he may bear, is a *Rebel*, subject to laws against tyrants and rebellion. Tyrants therefore, and oppressors, are the highest and most consummate rebels in the world—capital traitors to God and Man, and punishable by all the laws of God and Man. Amid all the absurdities and chimeras of paganism, it was never believed that tyranny was warranted by heaven. It was never believed that the bloody Caligula was the vicegerent of God, and that the worst of men had a commission from heaven to oppress the human race. It was never believed that murder, rapine, and misrule, were government; and that lawless and bloody crowned robbers, were governors divinely appointed. It was never believed that society had no remedy against devouring lust and the raging sword, which were destroying all the ends of society, and even society itself. Such indignities to God and man were never broached by pagans; they never propagated doctrines which would have turned men into ideots, destitute of reflection and feeling; into beasts of burthen and beasts of sacrifice; turned heaven into hell; human society into a chaos of blood and carcases; and the earth into a place of torments. It never entered into the heart of a Greek or a Ro-

man, nor into any heart that felt the sentiments of virtue and humanity, that it was unlawful to defend nature; a crime to ward off murder, barbarity, and desolation; and an impiety to do the most godlike action which can be done on this side heaven, that of disarming tyrants, and of saving our country from perishing. Government is doubtless a sacred thing, and justly claims our reverence and duty; but when government is general oppression; when havoc, spoil, and persecution prevail, to the destruction of all who do well; when law and justice are banished, and military despotism triumphs; when property is attacked and seized without the consent of its owner, and lives are wantonly destroyed! —is this government too? If it be, tell me what is not government? I do not think, in an age like this, that the people of this, or any country, can ever be so sunk or deadened by oppression, but that repeated provocation will raise a spirit amongst them capable of accomplishing the greatest projects. Even the most professed and degraded slaves, the people of Turkey, often rouse themselves, and casting their proud rider to the earth, trample him to death. A little spark often kindles a great flame, and a flame soon spreads to a conflagration. An ignorant nation roused to assert its liberties, will be mad and furious; for when men are used like beasts, they will act like beasts! But when an enlightened people, knowing their rights, are reduced to a state of degradation, they will know that their condition cannot be worse, but, by their own efforts, their condition must be better. An ignorant people, incited by repeated injury to shake off the load of injustice, will risk unseen evils and calamities—will risk even a civil war to be revenged on their oppressors. Such was the temper of the Romans upon the revolt of Sacrovir—they even exulted in it, and in hatred to Tiberius, wished success to the public enemy. Such were the injured people of Spain, who, when the Romans came, joyfully received them as their deliverers from the tyrannous yoke of Carthage. But an enlightened people will never sully the victories of patriotism by such irregular conduct. Revenge will never be adopted as a principle. Peace will actuate their demeanour, and they will glory in awaiting the slow process of universal information, as a prelude to universal emancipation, rather than tarnish the career of liberty, by involving their country in scenes of terror, waste and depredation; Oppressed nature will, at a proper season, depart from passive principle; and should an attempt be made to wrest what remains of liberty from us, I trust all men will concur to vindicate their violated rights—for, if the attempt be suffered once, it will be often repeated. A *few repetitions* create a habit, and habit will claim prescription and right. For governors to be omnipotent, the race of man must be extinct; and no argument for destroying anarchy can be used, but what is full as strong for the overthrow of tyranny. It is difficult to restore public affairs, when once disconcerted, to their former steady principle—numbers will engage in the corruption, and will try every art and power to support it, and they will continue to do so, until nature, which is always uppermost in man, signs their tragical doom!

"CITIZENS;—I repeat my former assertion. Go on as you hitherto have done, in the culture of reason. Disseminate throughout the whole of your country, that knowledge which is so necessary to man's happiness, and which you have yourselves acquired. Teach your children and your countrymen the sacred lessons of virtue, which are the foundations of all human polity. Teach them to respect themselves, and to love their country. Teach them to do unto all men as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice; when by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened and the sun of reason shall shine in its fullest meridian over us; then the commanding voice of the whole people shall *recommend* the five hundred and fifty-eight gentlemen in St. Stephen's Chapel, to go about their business."

"After having concluded the above speech, Henry Yorke observed, that as there might be many persons present who came from motives of curiosity, and others who came for a more criminal purpose, he should adduce in justification of the reasoning he had employed, the writings of a man, who was the first to reduce into a system, the study of human understanding, and the principles of government—he meant John Locke; whose excellent discourse on civil government he then held in his hand, and from which he read the following extracts:

"'No government can have a right to obedience from a people who have not freely consented to it; which they can never be supposed to do, till either they are put in a full state of liberty to choose their government and governors, or at least till they have such standing laws, to which they have by themselves or their representatives given their free consent, and also till they are allowed their due property, which is to be proprietors of what they have, that nobody can take away any part of it without their own consent, without which, men under any government are not in a state of freedom, but are directly slaves under the force of war.

" 'There is another way whereby governments are dissolved, and that is, when the legislature, or the prince, either of them, act contrary to their trust. First, the legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties or fortunes of the people. The reason why men enter into society, is the preservation of their property; and the end why they choose and authorize a legislative is, that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society, to limit the power, and moderate the dominion of every part and member of the society: for since it can never be supposed to be the will of the society, that the legislative should have a power to destroy that which every one designs to secure, by entering into society, and for which the people submitted themselves to legislators of their own making; whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery, under arbitrary power, they put themselves into a state of war with the people, who are thereupon absolved from any farther obedience, and are left to the common refuge which God hath provided for all men, against force and violence. Whenever, therefore the legislative shall transgress this fundamental rule of society, either by ambition, fear, folly, or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power, over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who had a right to resume their original liberty, and, by the establishment of a new legislative (such as they should think fit) provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also concerning the supreme executor, who, having a double trust put in him, both to have a part in the legislative and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the force, treasure, and offices of the society, to corrupt the representatives, and gain them to his purposes; or openly pre-engages the electors, and prescribes to their choice, such, whom he has, by solicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised beforehand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very foundation of public security? for the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act, and advise, as the necessity of the commonwealth, and the public good should, upon examination and mature debate, be judged to require. This those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a breach of trust, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments, visibly employed to the same end, and all the arts of perverted law made use of to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust, went along with it in its first institution, is easy to determine: and one cannot but see, that he who has once attempted any such thing as this, cannot any longer be trusted.

" To this, perhaps, it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin; and no government will be able long to subsist if the people may set up a new legislative, whenever they take offence at the old one. To this I answer, quite the contrary. People are not so easily got out of their old forms, as some are apt to suggest. They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to.

" 'But it will be said this hypothesis lays a ferment for frequent rebellion. To which I answer, first, no more than any other hypothesis; for, when the people are made miserable, and find themselves exposed to the ill usage of arbitrary power, cry up their governors as much as you will for sons of Jupiter; let them be sacred or divine, descended, or authorized from heaven; give them out for whom or what you please, the same will happen. The people generally ill-treated, and contrary to right, will be ready upon any occasion to ease themselves of a burthen which sits heavy upon them. They will wish and seek, for the opportunity, which in the change, weak-

ness and accidents of human affairs, seldom delays long to offer itself. He must have lived but a little while in the world, who has not seen examples of this in his time; he must have read very little, who cannot produce examples of it in all sorts of government in the world. Secondly, I answer, that such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be borne by the people, without mutiny or murmur; but if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going, it is not to be wondered at that they should then rouse themselves, and endeavour to put the rule into such hands which may secure to them the ends for which government was first elected; and without which, ancient names and specious forms, are so far from being better, that they are much worse than a state of nature, or pure anarchy—the inconveniences being all as great and as near, but the remedy farther off and more difficult.'

"After reading the above, Henry Yorke continued, 'I must observe to you, that 'for this discourse on civil government 'John Locke was preferred by king Wil- 'liam to the important place of master of 'the Mint, and was universally beloved 'and honoured at court. This book was 'generally considered, at the time it came 'out, to have been a more powerful means 'of securing the king upon his throne, than 'even the arms of Holland and Britain, 'and it has contributed, perhaps, more 'than any other publication, to secure the 'present royal family upon the throne of 'these kingdoms. Although it was written 'a century ago, it was a principle in esta- 'blishing the American Revolution, it has 'conspired the overthrow of despotism in 'France; and, before long, its principles 'will have driven despotism from the face 'of Europe. To such a book there can be 'no exception; and, I think, I cannot bet- 'ter serve the king, or my fellow citizens, 'than in bringing it before the public. I 'understand it is not to be purchased, be- 'cause I am told ministry have bought 'them all up, or they were purchased to be 'sent to America; but I will defeat their 'ends, I will extract its spirit, and give it 'you in a small compass, and as cheap as 'the press can print it.' [Loud and reiterated applauses.]

"The following resolutions were next read and unanimously approved of, amidst loud applauses.

"4. That in every country where the people have no share in their government, *taxation is tyranny.*

"5. That, therefore, a government is tyrannical or free, in proportion as the people are equally or unequally represented.

"6. Convinced of this truth, it is the opinion of this meeting, that the people ought to demand as a right, and not petition as a favour, for universal representation.

"7. That, therefore, we will petition the House of Commons no more on this subject.

"After which Henry Yorke, according to a requisition which had been made to him a few days before, presented the following petition to the king for the total and unqualified emancipation of the negro slaves. He prefaced the petition with a most eloquent and animated speech on the subject; but from the fatigue which he had undergone from the preceding part of the business, it was impossible for him to carry to its intended length, a discourse which had already drawn tears and sighs from a great part of his auditory. As we understand he means to make an appeal to the public on the subject, in which, of course, will be included the observations which he made at this meeting, we trust no apology will be necessary for our omitting to give any sketch of them here.

"'TO THE KING.

"'Sire;—Justice is eternal. Unconfined by time, person, circumstance, or place, it ought to form the basis of all legitimate government, and the motive of all human intercourse.

"'As intellectual beings, we conceive it to be a sacred obligation, imposed on us by the Supreme Being, to think for ourselves. In conformity to which principle, we are naturally led to desire the extension of knowledge throughout the world. As we ourselves feel, we are naturally led to sympathize with those who feel also. Wishing to be rid of the weight of oppression under which we groan, we are induced to compassionate those who groan also, and to desire an alleviation of their sufferings.

"'On our own account we have repeatedly petitioned the Lower House of Parliament, but petitioned in vain. We are weary of the practice. We are disgusted to hear the hallowed name of liberty made the sport of corrupt placemen; and we are shocked to see, that in the practice of legislation, humanity is but a name. We are now petitioning, not for ourselves, but for others; for those whose sorrows harrow up the feeling soul, and terrify the christian heart; for those, who are the victims of avarice, cruelty, rapine, immorality, and luxury. We have the sanction of one of your majesty's sons, in declaring, that the negro slaves in the West Indies, are full as happy as the lower classes of people are in

England. We employ so great an authority in justification of our petition; and considering, that we who supplicate your majesty are generally men of that description, we are bound to conclude, that if our African brethren be no happier than we are, they must be wretched indeed. For we groan, Sire, under great and grievous burthens, and we see no prospect of redress before our eyes, nor have we a hope that our miseries will shortly end. Our wives and little ones are starving, and ourselves unable to provide them with the common necessaries of life, are sunk in sorrow, and compelled to join in their bitter agony and deep despair. But the contemplation of our distressed state becomes additionally alarming at the certainty of having more burthens accumulated upon us, which may be productive of consequences injurious to the humanity, and fatal even to the interests of government itself. Such, Sire, is our state, and such, from the comparison drawn by the duke of Clarence, is the state of our negro brethren in the colonies. But, in addition to the testimony of so high an authority, we have a volume of respectable evidence delivered into the House of Commons, which proves, beyond contradiction, that our condition is by no means so deplorable as that of the wretched Africans. They are slaves—under which odious epithet, man is reduced to the condition of the brute, and is deprived of a country, and of the tenderest ties of human life. The rights of a social being are denied to him, and every principle of moral obligation is destroyed. The liberty, the person, and the industry of the slave are at the disposal of the master.—Far different is our state; and although from not being represented in the House of Commons, our property may be taken from us without our consent; although from the erection of barracks throughout our country, and from the unconstitutional introduction of foreign troops into it; from the encouragement given to a system of state inquisition, and from the violent measures employed to wrest the liberty of the press from the hands of the subject—we cannot call ourselves free men in the strict sense of the word: yet our lives cannot be taken from us, but for crimes previously defined and declared punishable by law; nor can our persons be wantonly sported with, to gratify the lust, the avarice, or the cruelty of overseers and slave drivers. So far we have undoubtedly the advantage over the negro slaves; and we cannot help thinking, in justice to the royal personage who drew the resemblance, that he reasoned more from our actual condition, than from what we were, and what we ought to be—a free, a happy, and a contented people.

"'Quitting, therefore, the comparison which has been drawn between the poor of this country and the negro slaves in the colonies, we beseech your majesty to take into your gracious consideration our petition in their behalf. We are happy to congratulate your majesty, that we not only cultivate reason ourselves, but we are daily exerting ourselves to diffuse its influence universally. Our success, Sire, has been wonderful! We glory in announcing to your majesty, that, by the use of that reason we have discovered that society is made for man's happiness; that liberty is the first and best gift of God to man—which it would be impious not to assert, and sacrilege to surrender. In the names, therefore, of liberty, of justice, and of humanity, and for the sake of those, whose cries of, 'Mercy! Mercy! Master!' are ringing eternally in our ears, we petition, we implore your majesty, to put an end to that devilish commerce in human flesh; which is a thousand times more abominable in the eyes of God and of man, than the practice of selling human flesh in Germany—because accompanied with acts more profoundly cruel, and more deliberately inhuman. The voice of an immense majority of the whole nation has invoked the humanity of the House of Commons for the partial abolition of injustice—but in vain. It was told, that the slave trade was inhuman, impolitic, and unchristian. Eighty-eight only out of 558, voted agreeably to the will of the nation for its abolition!! Did the remaining 470 mean thereby to sanction inhumanity and impolicy, and to oppose the holy christian religion, the fundamental maxim of which is, 'Do unto all 'men as you would they should do unto 'you?' One melancholy fact, however, it has proved, that a sense of a majority of the people was not regarded in that House, and that justice and humanity are of no consideration, when put in competition with avarice, wealth, and power. But what makes humanity more than shudder, one of the members of that House, who had his leg bit of by a shark, and whose life was saved by a poor negro, declared, that he should vote against the abolition of the slave trade, because the negroes consumed the refuse of our fisheries. Such marked ingratitude, such unfeeling barbarity, publicly avowed in the British senate, instead of sending the author to prison for an abuse of speech, met with repeated applauses: and what grieves us more, we find, that this very man has been appointed by your majesty's ministers, to superintend the provisionment of the army, now carrying on the dreadful work of human slaughter, on the blood-stained fields of Flanders.

"'So many bars have been thrown in the way to prevent the abolition of the slave trade, by those unfeeling barbarians, who, unblushingly, call themselves slave dealers,

West India merchants, and planters: so many obstacles having been opposed to the reclamations of humanity in favour of the wretched—we petition your majesty, in whose hands is mercy, to recommend, or command the British senate immediately to abolish, in the fullest manner, and without any qualification, negro slavery in the West India islands—because it is insulting to human nature in an age of reason and philosophy—because it tends to open wide the flood-gates of patronage, corruption, and dependance: inflames and stimulates the sordid passion of avarice, which is ever ready to feed ambition, to furnish the first means of engaging in ruinous, bloody, and destructive wars, by which courtiers are enriched, and nations beggared—because its abolition will redeem the national honour, too long sullied by the trade of blood—because it will promote the cause of liberty, which is striding apace throughout all the regions of the world—because it will avenge peacefully ages of wrongs done to our negro brethren—because it will give to industry its just latitude—because it will put an end to injustice, impolicy, cruelty, avarice, havoc, spoil, and blood—because it will cover a multitude of national sins, and, instead of national fasts, which are too frequently the dreadful preludes of blood and sorrow, it will be a national feast, grateful to God, and pleasing to man. It will extend the empire of benevolence, the brotherhood of the human race, and immortalize your majesty's reign, for having established on their purest principles, the claims of justice, and the rights of man.'

"The above petition, and the following resolutions were received with unbounded applause, and without one dissenting voice, except at the word *humbly*, which was several times used in the petition, was objected to, and on being put to the vote, was unanimously agreed to be expunged.

"8. That we feel ourselves not only ashamed, but indignant, that the British government should be actively engaged in the traffic and slavery of human beings.

"9. That as no compromise can be made between freedom and tyranny, between virtue and vice, justice and injustice, we think it our duty not to confine ourselves to the mere abolition of the slave trade, which would be sacrificing a right to a convenience, but to petition for the total emancipation of the negro slaves.

"10. That the petition to the king now read, for the total and unqualified abolition of negro slavery, is approved.

"11. That a congratulatory letter be transmitted to Thomas Walker, of Manchester, on his victory over church and king associations, and that the letter now read be approved,

"12. That the above petition and address be transcribed on parchment; and that they be forwarded to earl Stanhope, and that he be requested to present the address and petition to his majesty.

"13. That the thanks of this meeting are given to all those juries who, in these inquisitorial times, have acted like freemen, in acquitting those of their fellow citizens who have been brought to trial for speaking what they thought.

"14. That the proceedings of this meeting be publicly advertized and transmitted to the Friends of Liberty, of Justice, and Humanity, throughout the kingdom.

"15. That a voluntary subscription be immediately opened, for defraying the expenses attending these proceedings.

"16. That the committee of the Sheffield Constitutional Society be desired to see that the above resolution be carried into effect; and that they prepare an address to the British nation, explanatory of the motives which have induced this meeting to adopt the resolution of no more petitioning the House of Commons on the subject of reform.

"The above resolutions being passed, and a congratulatory letter to Thomas Walker, of Manchester, read, on his acquittal from an infamous prosecution at Lancaster, the meeting was dissolved.

"Notwithstanding the largeness of the company, so great were Henry Yorke's exertions, and so close the attention paid to him, that there was scarcely a person present who did not distinctly hear; many, indeed, we are told, who were not heretofore remarkable for their liberality of sentiment, have acknowledged themselves greatly enlightened by what they heard. To show the high sense entertained of Henry Yorke's services at this meeting, by the populace, he was no sooner seated in the coach, which attended on him, than the horses were taken from the carriage, and the people drew him through most of the public streets in Sheffield, amid the acclamations of thousands:—which done, after a few admonitory words from the orator, every man went peaceably to his own home."

"AN ADDRESS TO THE BRITISH NATION.

"Friends and Countrymen;—We have this day decided, with the exception of only one dissenting voice, that the House of Commons shall never again be petitioned by us on the subject of parliamentary reform.

"We owe to the nation, to posterity, even to foreign countries, and to the government itself under which we live, an exposition of our motives. To the nation we owe this duty, because we are of opinion, that the will of the majority of the people should be, at all times, the supreme law: and that if the few dissent from the opinion of the many, however obligatory

the will of the majority may be to them as a rule of action, yet opinion is always free and sacred, the right of man to enjoy, and the conscientious duty of man to diffuse. Under the full conviction of this principle, we feel ourselves, at present, the minority, because we are the first to agitate the question, and to repel the monstrous idea of petitioning when our petitions are not received by the House of Commons. But, we are numerous—we are many thousands; and as nothing opens the eyes of men so much as their interests, we demand, fellow-citizens, nay, we are entitled to it from our numbers, that you lend an attentive ear to the truths we are about to utter, and to the reclamations we are about to make in favour of oppressed humanity. Hearken unto our voice, for we think it will strike conviction; attend to our reasoning, for we know that your applauding sentiments will give solemnity to our measures, and consequence to our example. To posterity this duty is owing, because they will expect justice at our hands, liberty from our exertions, happiness and peace from the success of our cause. To foreign countries, because they will then form some estimate of the degree of confidence which we, who live under the British government, repose in it; and of the affection, respect and obedience, paid by our rulers to the majesty of the people. To the government itself, because it will discover, in our firm and manly tone of conduct, materials for serious and solemn debate. It will discover that the exercise of a power, underived from even magisterial authority, is totally repugnant to the genius of a legislative assembly, (which ought to be an emanation from the public will, and, therefore, obedient to it) because it has a tendency to loosen the bands of subordination, and to weaken that reverence which should always be shown to a government which regards the condition and fulfils the mandates of its sovereign, the people. It will be taught a lesson, which is sanctioned by the testimony of both ancient and modern story, that when a government contemns the people, the people will, in their turn, contemn the government: it will be taught that when their exists a want of confidence between the governors and the governed, confusion, the worst of national distempers, is the issue.

"Our petition was received with the utmost indignation by the House of Commons; which was no more than we expected. We knew that the homely truths, we uttered would be very unwelcome guests in that House. We never expected that a body, in which there were so many placemen and pensioners, would listen to the palpable facts stated in that petition; the object of which was, to root out injustice, and to curb licentiousness and corruption. Nevertheless, as we were called upon by our countrymen to unite with them, we thought ourselves bound to comply with their wishes. And although our petition was disdainfully rejected, because not couched in language sufficiently polite and respectful for the five hundred and fifty-eight gentlemen who sit as the House of Commons, yet believe us, fellow citizens, we are still of opinion, that the matter it contained was not only just and proper, but, we think, that even the language, which gave so much offence to the hon. gentlemen, was much too moderate for us. For, if the House of Commons were the real representatives of the people, we certainly had a right to dictate, and not to petition, because they could be considered in no other light than as the organs of the public will. And if they refused to obey that will they would be usurpers and not representatives. If, on the contrary, they are not the representatives of the people, what have we to do with them; if they are not our representatives we cannot be their constituents; and to petition those who are not our representatives as our representatives, would be a manifest absurdity, if not an insult and mockery of ourselves. However, the petition, such as it was, being termed disrespectful, was thrown out by a majority of 79, there being 29 only who voted for its being received, and 108 who voted against it. Such imperious treatment rather gives warning than strikes terror. The abuse of representation can never come in the place of a rule, for no legal power can be derived from injury or injustice. On this ground alone, therefore, we are justified in preserving a sullen silence in respect to the House of Commons. For if grievances, abuses, complaints, and truth, are to be discarded from that House, because not dressed in a gentleman-like language, how are we plain mechanics, ever to obtain redress, who are not gentlemen, and who are, consequently ignorant of those polite and courtly expressions which are necessary to gain a hearing in that House. We are ignorant of the art of displaying truth by halves, and, as we love plain dealing ourselves, we detest hypocrisy in others, and pity those who would wish us to follow their example.—We said to the House of Commons, we are wronged and aggrieved—will you right us, and redress our grievances, or will you not? If you will, we shall be satisfied; if you will not, we shall seek redress some other way. This is the sole question with us, and we put it, as we thought, in a most becoming style to the House of Commons. But, our petition being scouted, we shall trouble them no more with our coarse and unmannerly language. It will be our duty to proceed, as we have uniformly done hitherto, in enlightening the public mind; and,

when a complete revolution of sentiment shall take place (as will shortly be the case) in our country, we shall open our mouths, in that key we think most agreeable to ourselves. And our voice, together with that of our disfranchised countrymen, will resemble, perhaps, the thundering from Mount Sinai!

"Yes, countrymen, we demand equality of rights, in which is included equality of representation, without which terror is law, and the obligations of justice are weakened; because unsanctioned by the sacred voice of the people. We are not speaking of that visionary equality of property, the practical assertion of which would desolate the world, and replunge it into the darkest and wildest barbarism; but that equality we claim, is to make the slave a man, the man a citizen, and the citizen an integral part of the state; to make him a joint sovereign, and not a subject; to oblige law, which ought to be an emanation from the general will, to shed its influence, without distinction, over the heads of all, and to restrain or strike the wealthy plunderer equally with the more homely offender. We wish to give rights to him who has none, and a country to him who wants one. We wish to upset the idol of injustice, which has poured forth, from its exalted throne, a deluge of sorrow, and flooded the world with tears and the blood of its inhabitants. We desire to see wisdom demanding of miserable millions their wants, and humanity at hand to supply them. We desire to see the sanctuary of virtue erected, and the standard of liberty planted in our land, around which the people may rally as to an holy of holies. In short, we desire to see the alter of equality blazing in Britain, whose streams of fire, whilst they shall shock, convulse, and tear down the rotten pillars of prejudices; whilst they shall consume tyrants, and terrify public delinquents; shall pierce into the hearts of the whole people, and confirm the wide empire of morals on the wreck of superstition and vice.—Such is our equality, and such is the equality which we proudly gratulate our countrymen will shortly be established in Britain, and which we invite you, people of Scotland, to partake of. The banks of the Forth, the fields of Bannockburn, and Culloden, and that tribunal of Edinburgh, which has disgraced your capital, shall yet bear testimony to the cause for which Fletcher wrote, and Wallace bled.

"People of Britain, cultivate reason?—inquire, and you will be informed—claim your rights, and you will have them.—The laurels of the victorious patriot are dishonoured when tinged with civic blood. Let revolution of sentiment precede reformation in government and manners: let *public opinion be confirmed*, that public opinion may be respected. When the general will is known, it ought to be, it must be obeyed. Rulers will always respect you, when you respect yourselves: and, oh! sacred isle! honoured in the page of history for having cherished the flame of liberty when it hath been smothered throughout the globe; renowned for thy Hampden, thy Sidney, and thy Locke—still be the asylum of the unfortunate, and the refuge of the free!—Sacred love of our country!—teach the people their rights, that they may avenge their wrongs! holy flame of patriotism! kindle within our breasts the sacred flame of liberty, and give us courage to assert it! Virtue! teach us mercy, that we may spread far and wide the empire of peace and benevolence!"

They then proceeded to cross examine Broomhead, on the part of Mr. Horne Tooke; he said they had no view of overturning the government by force, that he knew of: that there was no intent to attack the king; that they were as well affected to the king as any people in England; that there was no intention against the House of Lords, to his knowledge; but a reform in the democratical part of the British constitution was that which they aimed at, the representative part in the House of Commons; he knew of no other view, and they had no view to obtain it by force.

He was asked, upon his re-examination for the prosecution, how that motion to negative the petition to parliament was managed; he said that it was settled by a very few persons; that if any person had had views of doing any thing improper, or by force, it was unknown to him, and those with whom he acted; that a deference was paid to some of the leading persons in the ordering the affairs of the society: that he was a passive person himself as being secretary. He was asked what is become of Gale, one of the persons named as being of that small party which settled the business relative to the motion, he said he did not know what was become of him; he said he did not take any part about this motion, because he had been told that being secretary, he had no right to give an opinion.

George Widdison was then called, he said, he became a member of this society at Sheffield two years ago; that part of that time he belonged to the division number one, and was a delegate; that the society might consist of about six hundred regular members; they met once a fortnight in the divisions; that the division number one, met on a Tuesday or a Wednesday; that the general meetings were occasionally once a month, or once in six weeks; he says he saw Yorke at Sheffield two years ago; he first saw him in Queen-street, soon after the execution of the king of France; that Yorke was generally in the chair when at Sheffield; he remembered Matthew Campbell Brown being elected a delegate to the Convention at Edinburgh; that

Brown had been a player; afterwards he acted as an attorney; Yorke once lodged at Cawthorne's, the witness attended him there as a hair-dresser; Yorke afterwards lodged at Beale's, a grocer; that he had some conversation with him about pikes; that Yorke seemed to agree upon the necessity of pikes being made; he said Yorke gave him to understand that Gale would take a dozen of pikes, and he made a dozen or a dozen and a half of pike handles for Gale; he sent one of them to Yorke, who said it would do; the witness was a turner by trade, as well as a hair-dresser; that the pikes were about seven feet long; Yorke asked him some few times—how do you go on with these pikes; he said the pike heads were to come from Davison's; there were iron hoops put on at the ends of the shafts; the witness said he withdrew himself, after some time, from this society; he said he told Yorke one morning, he thought they were going too far respecting universal suffrage; that he was convinced it would carry them too far, by drawing in too great a number of people to give their voices for members of parliament before they were acquainted with the business. He said he had conversation with Davison; that he never understood the pikes were for any other purpose than for their own defence; he describes the head of these pikes to be about eight inches in length, and about an inch and a quarter in the broadest part.

He was asked upon his cross-examination whether he was an enemy to the king; he said, God forbid; that they had no intent to attack the power, or the person of the king, to his knowledge, and that he would not have continued in the society if they had; he said their plan originated in what was drawn up by the duke of Richmond. The letter of the duke of Richmond to colonel Sharman was shown to him; he said he believed that was the general idea they had all that time, because they thought there was no other plan sufficiently effectual to reform the House of Commons, and make it what it was originally intended by the constitution; he never understood that it was meant to be done by force; that the principal ground for his withdrawing from them was, his not approving of universal suffrage; he believed the pikes never were intended for any other purpose than to defend themselves; that Gale's house had been absolutely attacked upon some news being brought to Sheffield, and his friends were under the necessity of coming to defend him; that Gale, he thought, was so honest a man that he could not make an ill use of these pikes; he heard the opposite party say, that if there was an invasion they should first fall upon this party at Sheffield; he said he believed that the only reason for having these pikes was the attack made upon them; he never understood they were intended against the government; he said the opposition was among themselves; he thinks that one Bamford, Thomas Penn, and another man, who he said was a parson, were the cause of all the mischief in the neighbourhood; that that last man published an inflammatory letter in the paper called the Courant, recommending to the people, called by the name of Aristocrats, to take up arms, and exterminate these people; he particularly remembers this letter, and that there were similar letters published by others; he said he made no application to a magistrate, for indeed they very seldom could have justice; he was asked if there were any riots in the town; he said there were no riots till Mr. Wilkinson and the dragoons came; that he explained by saying that the town were dissatisfied about an inclosure which they wanted to get rid of, and when Mr. Wilkinson and the dragoons came and prevented them that the people grew riotous; he said he once applied for justice to Mr. Althorp, a magistrate, and he refused to listen to his complaint; that, when explained, turned out to be a matter in which it was very likely the magistrate did right; it was a quarrel at an ale-house, and related to money which probably had been shaken our of his pocket, which it seemed as if he wanted to charge people with having stolen; he said they approved of the duke of Richmond's plan, and so much of Paine's work as fell in with it; parts of it he said he thought they did not approve of, nor understand, and he thought Paine did not understand those parts himself.

Mr. Gurnell then produced a paper found at Hardy's, which purports to be a letter from Davison, addressed to citizen Hardy, proposing to him that he would supply him with pikes upon a plan lately adopted at Sheffield, and inclosing a letter directed to the Norwich Society, to be forwarded to them for the same purpose, making an offer of these pikes. Widdison says that Davison was a printer. That letter to Hardy must be read. The letter for the Norwich Society, was in fact never sent, Hardy kept it by him till he was apprehended, and it is probable it was never opened.

"Fellow Citizen;—The bare-faced aristocracy of the present administration, has made it necessary that we should be prepared to act on the defensive against any attack they may command their newly-armed minions to make upon us.—A plan has been hit upon, and if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots great enough to make them formidable. The blades are made of steel, tempered and polished after an improved form. They may be fixed into any shafts (but *fir* ones are recommended) of the girt of the accompanying hoops at the top end, and about an inch more at the bottom.

"The blades and hoops (more than which cannot properly be sent to any great distance) will be charged one shilling. Money to be sent with the orders.

"As the institution is in its infancy, immediate encouragement is necessary.

"*Orders may be sent to the secretary of the Sheffield Constitutional Society.* [*Struck out.*] RICHARD DAVISON.

"Sheffield, April 24, 1794.

"To prevent post suspicion, direct to Mr. Robert Moody, joiner, Cheney-square, Sheffield. Please to forward the inclosed."

"Addressed, 'Citizen Hardy,
'No. 9, Piccadilly, London.'"

[The following letter was inclosed in the last.]

"Fellow Citizen;—The bare-faced aristocracy of the present administration, has made it necessary to] prepare to act upon the defensive, in case of any attack upon the patriots: a plan has been formed for carrying into effect this necessary business. —Pike blades are made, with hoops for the shafts to fit the top ends: the bottom ends of the shafts should be about an inch thicker, and *fir* is recommended for the shafts, selected by persons who are judges of wood. The blades and hoops will be sold at the rate of one shilling, properly tempered and polished. The money sent with the orders. RICHARD DAVISON."

"Direct to Mr. Robert Moody, joiner, Cheney-square, Sheffield, to prevent the post-master's suspicion."

"Addressed.—'To the secretary of
'the Norwich Patriotic Society.'"

Gentlemen, thus far it may be observed on the one side, that there seems to have been no great anxiety to make a full use of this offer from Sheffield, from the circumstance of the letter never having been sent to Norwich. On the other hand, the sending this letter to Hardy is very much against the pretence that these pikes were introduced merely for self-defence, because whatever necessity there might be for persons who were attacked and insulted at Sheffield, to procure themselves weapons of defence, in order to oppose any violence that might be offered to them; that originated there, it ended there, and it should have gone no farther. But when there is industriously spread abroad by this Davison, an idea of "preparing patriots in general, to act on the defensive, against any attack that may be made by the newly-armed minions," it rather looks as if that attack was sought, and as if these arms were more of an offensive than of a defensive nature. At the same time it is proper to observe, that under all the circumstances, it seems to be pretty clear it was, at farthest, but an inception of a design to procure arms, for you see there were none, in fact, sent up, as far as appears from the evidence, to London, and a very few indeed prepared at Sheffield; the evidence, I think, does not go to more than a dozen and a half, or some such number; probably there might have been some more, but they do not seem to have been prepared in any very great numbers. What this circumstance, if a check had not taken place, might have led to, can only be matter of conjecture; they were very dangerous weapons, and it was a most fortunate thing for the country that the discovery was made before there was any opportunity of making a bad use of such weapons. As it stands upon the whole of the evidence, it is a circumstance of some suspicion, but I think it does not go the length, upon the evidence, of fairly connecting itself with the plan of this convention, which is the material point to which it should apply, in order to give it the full force which a preparation of arms would give.

Gentlemen, they then call for a paper found upon Thelwall, written by Martin, and proved by Evan Evans to have been in Martin's possession, before the fourteenth of April; that is a material date, because upon the fourteenth of April, there were certain resolutions passed at Chalk-farm, and this paper purports to be a paper of resolutions, intended to be offered at the public meeting, that was to be held upon that fourteenth of April. Evans says that Martin read them over in his hearing, and desired Pearce to take them to Chalk-farm, and return as soon as possible; he says Pearce did come back; that Martin mentioned his having written the resolutions, and having put plenty of cayenne into them, and that if they would attend to him there would be] warm work. As against Martin individually this goes a great way towards demonstrating that he had in his mind, intentions of violence to be put in practice upon some occasion or other, and from the nature of the resolutions at Chalk-farm, and from the nature of the evidence respecting a convention to be held under the circumstances of that resolution, and that former resolution of the twentieth of January, undoubtedly it is evidence for your consideration to show that Martin contemplated force to be used upon the occasion of that convention. When I say it is evidence, I mean only to say, that it is proper to be submitted to your consideration, leaving you to make the inference how far it operates.

Evans was asked whether he knew a Nicholas Gay, he said no, the man he knew was a Richard Gay. Then he was asked some questions about a person of the name of Gay, who travelled in Russia, but he said he knew nothing at all of any such person, and nothing could be made of that examination.

The next evidence was to prove that this paper thus found upon Thelwall, and another paper of the same import, were of Martin's hand-writing. That paper was read in evidence, and will now be read to you. Undoubtedly it has a very bad and a very dangerous tendency.

" At a general Meeting of the London Corresponding Society, held at
on Monday, the 14th day of April, 1794.

" Citizen ——— in the chair.

" Resolved, That all sovereign, legislative, and judicial powers, are the rights of the people; and though the people have delegated those their original powers to others, in *trust*, for the benefit of the community, yet the rights themselves are reserved by the people, and cannot be absolutely parted with by the people to those persons who are employed to conduct the business of the state.

" Resolved, That the constitution of England is held by the King, Lords, and Commons, and other officers appointed by the people *in trust*, for the benefit of the people; and though these trustees may regulate and improve the constitution, yet they cannot alter or subvert it without committing treason against the nation.

" Resolved, That *Magna Charta*, or THE GREAT CHARTER OF THE LIBERTIES OF ENGLAND, made in the reign of king John; THE PETITION OF RIGHTS, assented to by parliament in the reign of king Charles 1st and the several laws made at and in consequence of the *Glorious Revolution* in the year 1688, are declaratory of those parts of the constitution of England, which are in and by them respectively declared.

" Resolved, That the office of KING of England was not instituted by the people merely as an office of profit and honour to the king, but he was so appointed as chief trustee and guardian of the constitution and rights of the people, and that important and laborious personal duties are annexed to the regal office, the objects of which are to promote the good of the people, and preserve their rights in full vigour from innovation and corruption.

" Resolved, That it is the duty of the king to preserve the constitution of England and the rights of the people against every encroachment; and in order to enforce that duty, the following oath is required to be taken by every king on his accession to the throne of Great Britain, to wit: the archbishop or bishop shall say—' Will you solemnly promise and swear to govern the ' people of this kingdom of England, and ' the dominions thereto belonging, according to the statutes in parliament agreed ' on, and the laws and customs of the ' same?"

" The king or queen shall say, ' I solemnly promise so to do.' Archbishop or bishop—' Will you to your power cause ' law and justice in mercy to be executed ' in all your judgments?' ANS. ' I will.'

" After this, the king or queen, laying his or her hand on the holy Gospels, shall say—' The things which I have before promised I will perform and keep; so help ' me God,' and then shall kiss the book.

" Resolved, That his present majesty, king George 3rd, on his accession to the throne of these realms, did solemnly take the said oath.

" Resolved, That the constitutional rights of the people have been violated, and that it is the duty of the people, in the present alarming crisis to assemble and inquire into the innovations or infringements which have been made upon the rights of the people, and how far the declarations of the constitution, as they were settled at the aforesaid Revolution, remain in force, and which of them have been violated, and by whom; and also whether such innovations, infringements, and violations, have been committed from the negligence or corruption of those who have been intrusted with the government of the state.

" Resolved, That this society do invite the people to meet in their respective neighbourhoods, to elect one or more person or persons as delegates to meet in a convention, to be held on the day of next, at such place as shall be appointed by the secret committee of this society; and that the delegates so elected do forthwith transmit to the secretary of this society, No. 9, Piccadilly, London, the vouchers of their several elections, in order that the place of meeting may be duly notified to them.

" Resolved, That it is the right and the bounden duty of the people to punish all traitors against the nation, and that the following words are now not a part of the oath of allegiance; to wit, ' I declare that ' it is not lawful, upon any pretence what- ' ever, to take arms against the king.' "

I will make but a single observation upon this paper,—and I wish, if I am right in what I feel in my own mind about it, that in this case, when Martin is not before you, it had not even been given in evidence,—it is that when this paper is examined, it is very apparent that the convention proposed was not a convention that had any thing to do with a reform of parliament. That is the single observation that I will make upon it.

Gentlemen, the next piece of evidence was a paper produced by Lauzun, found at Hardy's and which purports to be the proceedings of the London Corresponding Society at Chalk Farm. That paper must be read.

" *At a General meeting of the* London Corresponding Society, *held on the* Green, " *at* Chalk Farm, *on Monday the 14th of* " *April*, 1794, J. LOVETT *in the Chair*, " *the following Letters were read:*

" *To the Chairman of the Society of the Friends of the People.*

" Sir;—At a crisis so important as the present there needs no apology on the part

of the '*London Corresponding Society*,' for addressing itself to all other associated societies, who have in view the same object as themselves.

"To the '*Society of the Friends of the People*,' arguments are not wanting to show the importance and absolute necessity of a full and fair representation of the people of Great Britain. *They* have investigated the subject for themselves; *they* have exposed to the world a series of plain and indisputable facts which must excite in the mind of every man well disposed to his country, apprehensions of alarm for the security of the few remaining vestiges of liberty, from which, as Britons, we derive consolation.

"Deeply impressed with considerations of this nature, the London Corresponding Society earnestly solicits, at this time, the concurrence and assistance of the *Society of the Friends of the People*, in assembling, as speedily as the nature of the business will admit, a Convention of the Friends of Freedom, for the purpose of obtaining, in a legal and constitutional method, a full and effectual representation.

"Our request is not made from the impressions of the moment, but after the maturest deliberations on the value and importance of the object for which we are contending, and of the difficulties we may expect from those who present interests render them hostile to the welfare of their country.

"The opposition of such persons is no small argument for the goodness of our cause; and their late conduct when compared with their former professions, exhibits a depravity, unparalleled, we trust, on the page of history.

"Under the auspices of apostate reformers, we have lately beheld serious and alarming encroachments on the liberties of the people.

"We have seen with indignation and horror men *legally* and *peaceably* assembled, dispersed by unconstitutional powers, and their papers seized.

"We have seen some of our most virtuous brethren, whose only crime has been an imitation of Mr. PITT and his associates, sentenced to fourteen years transportation, without the sanction of law or even of precedent, of which number, one was held up in the British parliament as *convicted* and *condemned*, before he was even put upon his trial.

"The insidious attempts also to introduce foreign troops into this country, without the consent of parliament, and the intended bill to embody foreigners into his majesty's service, are measures sufficiently calculated to awaken our fears for the existence even of the name of liberty. Nor can we overlook that part of the present system of corruption, which maintains out of the public plunder, a train of spies, more dangerous to society than so many assassins, whose avowed business is, to destroy the friends of the country, one by one.

"These are grievances which demand immediate redress, and when added to those evils which are necessarily connected with every *partial* representation of the people, call for the strenuous exertions of every lover of his country.

"But we are told that the present is not the time for reform, and that innovation may introduce disturbance. Are those persons to judge of the proper time to make reform, who exist only by corruption? Are the people of Britain to endure every thing without repining, without ardently seeking a radical reform, because disturbances may happen? Have the enemies to reform told us whence these disturbances are to originate? Has a single overt act been committed by the friends to freedom? Have not all the riots, all the public disturbances, all the seditious assemblies been excited by the enemies to reform? And do they mean to tell us that they will still find other instruments for their wicked designs; that they have yet those who will act over again the outrages that have been perpetrated in some parts of Britain, and attempted in others?

"If such is the determination of those persons *hostile* to a *fair* representation, *let them look to the consequences*, but let them recollect that it has happened, and may happen again, that those who kindled the flames have perished by them.

"The friends to *reform* are friends to *peace*, their principles can be promoted only by peaceable means, they know of no other method of obtaining the object they desire. But they will not be alarmed by the threats of *venal apostates*, they will not draw back because they have seen some of their best friends doomed to exile. They will pursue the course in which they have begun, and turn neither to the right nor to the left.

"Convinced as the London Corresponding Society is, that as there is no power which *ought* so there is no power which *can* finally withstand the just and steady demands of a people resolved to be free; they will therefore look with confidence to the *determination*, and they hope to the *co-operation of the 'Society of the Friends 'of the People*,' in the attainment of an object which involves the dearest interests of society.

"Convinced also that their intentions are of the purest kind, they will never stoop to answer the calumnies of their enemies, but will at all times, and in all circumstances, endeavour, by firmness and perseverance, to deserve the countenance and approbation of the best friends of their country, *the friends of a fair Representation of the Peo-*

ple of Great Britain.—I am, sir, for the London Corresponding Society,

"THOMAS HARDY, Secretary.

"April 4, 1794."

"*COMMITTEE ROOM,*

"*Frith-street, April* 11, 1794.

"Sir;—Your letter of the 4th instant, addressed to Mr. SHERIDAN, chairman of the FRIENDS OF THE PEOPLE, was laid before that SOCIETY at their meeting on Saturday last; and they instructed their committee to thank the LONDON CORRESPONDING SOCIETY for their communication, and to express the alarm they feel in common with every Friend of Liberty, at the late extraordinary proceedings of Government, so ably detailed, and so justly reprobated by your Society. They assure you that all the Friends of Reform, may 'look with confidence to the determi-'nation and co-operation' of this society in every peaceable and constitutional measure, which shall appear to them calculated to promote the object of their institution; but they do not think that which is recommended in your letter, is likely to serve its professed purpose. They fear it will furnish the Enemies of Reform with the means of calumniating its advocates, and so far from forwarding the cause will deter many from countenancing that which they approve. For these reasons, the Friends of the People must decline to send Delegates to the convention proposed by the London Corresponding Society:—at the same time they renew their assurances of good will, and desire of preserving a proper understanding and cordiality among all the Friends of Parliamentary Reform, notwithstanding any difference of opinion that may occur as to the best method of accomplishing it.—In the name, and by order of the committee,

(Signed) "W. BRETTON, chairman."

"To Mr. T. Hardy, Secretary to the London Corresponding Society."

"The following RESOLUTIONS were then passed Unanimously:

"Resolved Unanimously.—1. That this society have beheld with rising indignation, proportioned to the enormity of the evil, the late rapid advances of despotism in Britain; the invasion of public security, the contempt of popular opinion, and the violation of all those provisions of the Constitution intended to protect the People against the encroachments of Power and Prerogative.

"2. That our abhorrence and detestation have been particularly called forth by the late arbitrary and flagitious proceedings of the Court of Justiciary in Scotland, where all the doctrines and practices of the *Star Chamber*, in the times of Charles the 1st, have been *revived* and *aggravated*; and where sentences have been pronounced in open violation of all law and justice, which must strike deep into the heart of every man, the melancholy conviction that BRITONS ARE NO LONGER FREE.

"3. That the whole proceedings of the late British Convention of the People at Edinburgh, are such as claim our approbation and applause.

"4. That the conduct of citizens MARGAROT and GERRALD in particular, by its strict conformity with our wishes and instructions, and the ability, firmness, and disinterested patriotism which it so eminently displayed, has inspired an enthusiasm of Zeal and Attachment which no time can obliterate, and no persecution remove; and that we will preserve their names engraven on our hearts till we have an opportunity to redress their wrongs.

"5. That any attempt to violate those yet remaining laws, which were intended for the security of Englishmen against the Tyranny of Courts and Ministers, and the Corruption of dependent Judges by vesting in such judges a legislative or arbitrary power (such as has lately been exercised by the Court of Justiciary in Scotland) ought to be considered as dissolving entirely the social compact between the English nation and their Governors; and driving them to an immediate appeal to that incontrovertible maxim of eternal justice, *that the safety of the people is the* SUPREME, *and in cases of necessity, the* ONLY *law.*

"6. That the arming and disciplining in this country, either with or without the consent of parliament, any bands of *emigrants and foreigners, driven from their own country for their known attachment to an* INFAMOUS DESPOTISM is an outrageous attempt to *overawe* and *intimidate* the *free* spirit of Britons; to subjugate them to an army of *mercenary* cut-throats, whose *views and interest* must of necessity be in direct opposition to those of the Nation, and that *no pretence whatever* OUGHT to induce the people to *submit* to so *unconstitutional* a measure.

"7. That the unconstitutional project of raising money and troops by forced benevolences (and no benevolences collected upon requisition from the king or his ministers can ever in reality be voluntary (and the equally unjustifiable measure of arming one part of the people against the other, brought Charles the first to the block, and drove James the second and his posterity from the throne; and that consequently ministers in advising such measures, ought to consider whether they are not guilty of high treason.

"8. That this society have beheld with considerable pleasure the *consistent respect* which the House of Lords displayed for

their own constitutional rules and orders, on the 4th of the present month, upon the motion of Earl Stanhope, concerning the interference of ministers in the internal government of France; and that it is the firm conviction of this society, that this circumstance when properly detailed, will have a considerable effect in convincing the country at large, of the true dignity and utility of that branch of HIS MAJESTY's PARLIAMENT.

"9. That the thanks of this meeting be given to EARL STANHOPE, for his manly and patriotic conduct during the present session of parliament; a conduct (which unsupported as it has been in the senate, of which HE is so truly honourable a member) has, together with the timely interference of certain spirited and patriotic associations, been nevertheless already productive of the salutary effect of chasing the Hessian and Hanoverian Mercenaries from our coasts; who, but for these exertions, might have been marched perhaps, ere this, into the very heart of the country, together with others of their countrymen, to have peopled the BARRACKS, which every where insult the eyes of Britons.

"10. That it is the firm conviction of this society, that a steady perseverance in the same bold and energetic sentiments, which have lately been avowed by the Friends of Freedom, cannot fail of crowning with ultimate triumph, the virtuous cause in which we are engaged; since whatever may be the interested opinion of *hereditary* senators, or *packed* majorities of *pretended* representatives, Truth and Liberty, in an age so enlightened as the present, must be Invincible and Omnipotent."

"*This Society having already addressed* M. Margarot, *their Delegate, an* ADDRESS *to* JOSEPH GERRALD *was read as follows, and carried unanimously.*

"*To* JOSEPH GERRALD, *a prisoner sentenced by the* High Court *of Justiciary of* Scotland, *to* Transportation *beyond the Seas for* FOURTEEN YEARS!

"We behold in you our beloved and respected friend and fellow-citizen a Martyr to the Glorious Cause of Equal Representation, and we cannot permit you to leave this degraded country without expressing the infinite obligations the people at large, and we in particular, owe to you for your very spirited exertions in that cause upon every occasion; but upon none more conspicuously, than during the sitting of the BRITISH CONVENTION of the PEOPLE at Edinburgh, and the consequent *proceeding* (we *will* not call it *trial*) at the bar of the Court of Justiciary.

"We know not which most deserves our admiration, the splendid talents with which *you are so eminently* distinguished, the *exalted virtues by* which they have been directed, the perseverance and undaunted firmness which you so nobly displayed in resisting the wrongs of your insulted and oppressed country, or your present manly and philosophical suffering under an *arbitrary*, and till of late *unprecedented* sentence: a sentence one of the most vindictive and cruel that has been pronounced since the days of that *most infamous* and *ever-to-be-detested* Court of Star-Chamber, the enormous tyranny of which cost the first Charles his head.

"To you and your associates we feel ourselves most deeply indebted. For us it is that you are suffering the sentence of transportation with felons, the vilest outcasts of society! For us it is that you are doomed to the inhospitable shores of New Holland; where, however, we doubt not you will experience considerable alleviation by the remembrance of that VIRTUOUS CONDUCT for which it is imposed on you, and by the sincere regard and esteem of your fellow-citizens.

"The equal laws of this country have, for ages past, been the boast of its inhabitants; but whither are they now fled! We are animated by the same sentiments, are daily repeating the same words, and committing the same actions for which you are thus infamously sentenced; and we will repeat and commit them until we have obtained redress; yet we are unpunished! either therefore the law is unjust towards you in inflicting *Punishment* on the exertions of *Virtue and Talents*, or it *ought* not to deprive us of *our share* in the GLORY of the *Martyrdom*.

"We again, therefore, pledge ourselves to you and to our country, never to cease demanding our rights from those who have usurped them, until having obtained an Equal Representation of the People, we shall be enabled to hail you once more with triumph to your native country.——We wish you Health and Happiness; and be assured we never, *never* shall forget *your Name, your Virtue,* nor YOUR GREAT EXAMPLE.

"The London Corresponding Society.
"JOHN LOVETT, Chairman.
"THOMAS HARDY, Secretary.
"The 14th of April, 1794."

"*It was also unanimously resolved.*

"That the Committee of Correspondence be directed to convey the approbation of this society—1. To Archibald Hamilton Rowan, prisoner in the Newgate of the city of Dublin, for his unshaken attachment to the people, and for his spirited assertion of their rights.

"2. To John Philpot Curran for his admirable and energetic defence of A. H. Rowan, and the principles of liberty, as well as for his patriotic conduct in parliament.

"3. To the society of United Irishmen in Dublin, and to exhort them to persevere in their exertions to obtain justice for the people of Ireland.

"4. To Skirving, Palmer, and Muir, suffering the same iniquitous sentences, and in the same cause with our delegates.

"5. To John Clarke and Alexander Reid, for their so readily and disinterestedly giving bail for our delegates, instigated thereto solely by their attachment to liberty, uninfluenced by any personal consideration.

"6. To Adam Gillies, Malcolm Laing, and James Gibson, for their able assistance given to Joseph Gerrald, at the bar of the high Court of Justiciary at Edinburgh.

"7. To felicitate Thomas Walker, of Manchester, and the people at large on the event of his, as well as several other late trials, and on the developement of the infamy of a system of spies and informers.

"8. To sir Joseph Mawbey, for his manly conduct at the late surreptitious meeting held at Epsom in Surrey.

"It was also unanimously Resolved,—That two hundred thousand copies of the Proceedings and Resolutions of this meeting be printed and published.

"J. LOVETT, Chairman,
"T. HARDY, Secretary.

"Resolved,—That the thanks of this meeting be given to the Chairman, for his manly and impartial conduct this day.

"T. HARDY, Secretary."

Gentlemen, you see what the general import of this paper is—They call a very numerous meeting, which is held at Chalk Farm; they introduce their resolutions with a letter of their own to another society, called the Friends of the People, in which they recommend to that society to concur with them in calling a convention and sending delegates; they read the answer of that society, declining to send delegates to that convention; they then pursue no farther in that meeting the idea of delegates to that convention, but they proceed to pass a string of violent resolutions. The fifth resolution certainly is a very violent one, for you can hardly say that it is any thing short of a direct affirmance—that the social compact is dissolved, and that the people are, therefore, driven to an immediate appeal to that incontrovertible maxim of eternal justice, that the safety of the people is the supreme, and in cases of necessity the only law—which, in truth, is an appeal to force. What makes me say that it seems to be a direct affirmance, that the social compact is dissolved, is, because it says—any attempt to violate those yet remaining laws which were intended for the security of Englishmen against the tyranny of courts and ministers, and the corruption of dependent judges by vesting in them—in such judges—a legislative or arbitrary power (such as has been lately exercised by the court of justiciary in Scotland) ought to be considered as dissolving entirely the social compact; then if it is affirmed, in this proposition, that the court of justiciary in Scotland has, by its manner of exercising its power, violated those laws, it is very difficult, upon the strict letter of the resolution, to avoid saying that it is a direct affirmance; but supposing it to fall short of a direct affirmance, see how near it goes to it, and how it leaves the moment when this social compact is to be taken to be entirely dissolved, at the mercy of all those who may at any time take upon themselves to declare, that the social compact is dissolved, and consequently the appeal is to be to force. Any thing that could be more directly calculated to raise an immediate civil commotion in the country, one can hardly imagine; what object men could have in publishing such resolutions, who had a peaceable measure in view, seems very incomprehensible, and it is in that respect a very weighty evidence to the general design of those who led that multitude of people to Chalk Farm.

Gentlemen, it should be observed in justice to the prisoner, that the only evidence which does directly connect him with this, is the communication to the Constitutional Society, that a meeting was intended to be held. Now it does seem to me as if that fell very far short of implicating him in these resolutions, therefore they must be considered as the resolutions of that assembly of people at Chalk Farm; it must be left for your consideration, upon all the circumstances of the case, whether resolutions of that nature, entered into in that public manner, did in any sort receive the assent of the prisoner, so as that you may from thence find yourselves authorized to infer that he did concur, or participate, in opinions and resolutions which go totally to destroy all pretence of holding a convention in a peaceable manner, for the lawful purpose which is the general object that they all profess, namely, a reform in the Commons House of Parliament.

Gentlemen, they next read the proceedings of the Constitutional Society upon the 9th of May, 1794, when Mr. Horne Tooke was present; there was then read a pamphlet containing certain proceedings of the London Corresponding Society, and of this society; two thousand copies were ordered to be printed; one of these copies was found upon Adams; the pamphlet is produced, it contains the proceedings of the twenty-fifth and the twenty-eighth of March, of the Constitutional Society, and the proceedings of the twenty-seventh of March, of the London Corresponding Society, and the resolutions of the twenty-eighth of March respecting Mr. Muir. And, if I take it right, these are the only material papers that this pamphlet contains, together with the toasts at the dinner of the second of May. With regard to those proceedings of the two societies, on the twenty-fifth and

twenty-eighth of March of the one society, and the twenty-seventh of March of the other society, they seem to be no otherwise material than as this publication fixes upon the prisoner a full knowledge of the circumstances that passed in his society, and the other society on those days—farther than that it does not seem to have any particular application. The toasts may be read.

"After dinner the following sentiments were given with unbounded applause:—

"1. THE RIGHTS OF MAN.

"2. A Free Constitution.

"3. The Swine of England, the Rabble of Scotland, and the Wretches of Ireland.

"4. Equal Laws and Liberty.

"5. May Despotism be trodden under the Hoofs of the Swinish Multitude.

"6. THE ARMIES CONTENDING FOR LIBERTY.

"7. Wisdom, Firmness, and Unanimity to all the Patriotic Societies in Great Britain.

"8. To the reign of Peace and Liberty.

"A citizen then rose, and in a short speech observed, that the Stewards seemed to have forgotten in their list of toasts, a person who had done more than almost any man towards *the Reign of Peace and Liberty*; he would, therefore, propose as a toast "lord Stanhope." An amendment was proposed, that instead of Lord Stanhope, Citizen Stanhope should be drank, which was received with thundering applause.

"9. May the Public Revenue never be applied to the purposes of corruption.

"10. The Victims to the cause of Liberty suffering under the sentences of the Court of Justiciary.

"11. Archibald Hamilton Rowan, and the Patriots of Ireland.

"12. The persecuted Patriots of England.

"13. MAY THE ABETTORS OF THE PRESENT WAR BE ITS VICTIMS.

"14. The Chairman, and success to his exertions in the cause of Freedom.

"Mr. Wharton thanked the company for their marked approbation of his conduct, and pledged himself to continue his efforts in the cause of Liberty. He then said he would propose as a toast,

"15. That steady Friend to Liberty, John Horne Tooke.

"Mr. Tooke said, he hoped it would be the last time that his health should be drank. His ambition was, that hereafter *his* MEMORY *should be given*.

"16. MAY ALL GOVERNMENT BE THOSE OF THE LAWS, AND ALL LAWS THOSE OF THE PEOPLE.

"17. Thomas Paine.

"The Chairman then gave as a concluding toast, a sentiment directly in opposition to that of Mr. Windham.

"18. Prosperity to the commerce and manufactures of Great Britain."

Gentlemen, the next witness that is called is William Sharpe; he said he was a member of the Constitutional Society, he became so two years and a half ago; it appears by the books that he was proposed by Mr. Horne Tooke; he said he attended at different times down to the month of May 1794; he was at the meeting when a letter came from the London Corresponding Society; he remembers five gentlemen coming to meet some gentlemen appointed by the Constitutional Society to meet them; he, the witness was one, he was proposed by Mr. Horne Tooke; he does not remember being present at the report that was made by the chairman of that committee; he said he knew nothing of a committee of correspondence.

Upon his cross-examination he said he supposes he was nominated to some delegation by Mr. Horne Tooke, because Mr. Tooke had a good opinion of him; that he has heard Mr. Horne Tooke say he would rather be governed by Saint James's than by Saint Giles's; that their intercourse began by Mr. Horne Tooke wishing that his daughters might be taught by him the art of engraving. He was asked as to Mr. Horne Tooke's manner of living; he said Mr. Tooke kept a horse, but he never knew him ride out more than once, and he walked out very seldom, perhaps not more than two or three times in a year; he saw little company, he generally spent his time in the morning in his garden; and in looking over old books, and in the evening at whist; he remembers a circumstance of an anonymous letter coming to Mr. Tooke from Ireland, with a letter in it for Mr. Paine, which he put into the fire without opening; he remembered that on the fifteenth of May, dining with Mr. Tooke in Spital-square, there was a letter supposed to have been intercepted, written by Mr. Joyce to Mr. Tooke; whether Mr. Tooke ever received any letter from Mr. Joyce, or ever answered one he cannot tell; he said that the letter which was intercepted was supposed to relate to something that Mr. Tooke was to do with the red book, and that the circumstance was laughed at; that letter was produced, and it was read, it states to Mr. Horne Tooke that Hardy had been taken up that morning, and his papers seized; then it concludes—"Is it possible to get ready by Thursday?" it is supposed that these words were thought mysterious (the letter having been intercepted) and that apprehensions were entertained that some mischief was intended, and that, therefore, the government took some precautions. It does not appear in evidence whether any such precautions were taken or no, but if they were, I think no man can impute blame, but, on the contrary, that our acknowledgments are due to government for being ready to hold out that sort of protection; and, undoubtedly, the exterior of all this business was such as justified alarm, and made it necessary for government to be upon their guard. I say the exte-

rior of it to distinguish it from the case now in judgment before you, which must depend upon the whole of the evidence taken together; this witness said that he has gone to Wimbledon with Mr. Tooke, and particularly he remembers that during the business of the Scotch Convention Mr. Tooke used to go away early, because he did not like that business; at other times he would often stay till ten at night; he said he understood that these words —"Is it possible to get ready by Thursday" —alluded to Mr. Tooke's being ready with some extracts from the red book, of places and pensions in Mr. Pitt's family, which he was to make; and he said, that he thinks he saw some light horse, somewhere about Spital-square where they dined; one might observe, that this single line, immediately following the account of Hardy's capture, certainly does not very well fall in with that turn that is given to it, and yet, at the same time, it may be, that it really ought to be so understood. He said that Mr. Tooke used to be desirous of long adjournments; that he wished to be much in his garden—he heard him express a wish, that there was an act of parliament to make it death for him to go out.

The witness said, that at the dinner club there were visitors admitted; and that there was nothing secret in the conversation there; that he knows nothing of the transactions of the country societies; that, for his part, he did not even read the proceedings of their own society, and does not himself know who did; he said there were frequent debates in the society but there were no secret committees; that sometimes they used to joke about their correspondents, when, in truth, they had no correspondents; and that there were committees of correspondence named, but he does not know that they ever met. He said Mr. Horne Tooke was against universal suffrage: and always spoke for the constitution as composed of King, Lords, and Commons; he said he received letters from the country, in consequence of Mr. Horne Tooke's appearing not warm in the business of the Scotch Convention, to know whether Mr. Horne Tooke had not been pensioned by the court; and whether he had not deserted the cause of liberty; he said, he remembers Mr. Tooke, in conversation, distinguishing between assisting a man to do a thing, and assisting him after he had done a thing, which thing he happened to dislike; he said that Tooke had generally company on a Sunday; that they used to come between two and four, and go away about eight; that they had an open and general conversation; he does not remember that any dangerous conversation ever passed; he said, he has often heard Mr. Tooke say, if there was to be any trouble, he himself should be the first victim, because he opposed all mischievous characters; and would do so, if he was execrated by all the world; for he would do what he thought it was his duty to do.

He said, that upon the second of May 1794 he dined at the anniversary dinner of the Constitutional Society; that there was conversation about Mr. Horne Tooke; it was said that Mr. Tooke had made an aristocratic speech; he said, it was a very easy thing to get admittance into this society; very few were rejected; he thought Mr. Tooke too careless about the business of the society; he said, he thought his professions as to a reform in the House of Commons were his real sentiments; he thought, that if things were brought back to the state they were in at the revolution, every thing would be right; he said, that he (the witness) was taken into custody on a warrant for treasonable practices; he thought the sole object of the Constitutional Society was parliamentary reform; he has no reason to suspect they meant to use force, and that force was never the subject of their conversation. He said that Mr. Horne Tooke was not of the committee of correspondence, or co-operation, he does not remember any of the associated members attending; he does not know whether the hundred thousand copies that they talked of printing, were ever printed, or any of them; he never heard Mr. Tooke consent to any attack upon an establishment, civil or religious; but he always defended them; he said, he had no object but a reform in the House of Commons. Mr. Tooke asked whether he was a bigot; Mr. Sharpe might have answered that question with the decency with which it was put; but he answered it roughly and abruptly, that he thought he had no religion at all; he said, that they used to subscribe a guinea a year; and that he did not consider himself as answerable for what other persons might do, beyond the particular engagement of his guinea, and beyond what he should personally consent to.

They then called Christopher Hull, who said he was a member of the Constitutional Society, and had been so from 1791; he recollected hardly any thing, and therefore he was very soon dismissed; he said, he recollected Mr. Joyce being in the chair at a dinner; but he remembered nothing of any report being made or read.

They then produced a paper found at Hardy's, which was the report of the committee of the Constitutional and the London Corresponding Societies; that paper has been read; and, I suppose, it only tends to confirm the truth of these people having met, and having made that report.

They then called for another paper found upon Hardy; which purports to be the appointment of a Mr. Vaughan to be a delegate, and to assist the committee of constitution in April, 1792; as far as I can understand, at the time that the establishment of the London Corresponding Society took place, they did not immediately frame their constitution; and that this Mr. Vaughan was desired to take a part in the framing of that constitution.

They then produced a letter of Thomas

Paine to the people of France; which appears to have been published and distributed gratis, by the London Corresponding Society; two hundred copies of that paper appear to have been sent by the London Corresponding Society, to the Constitutional Society. That paper was read; and here the evidence, on the part of the prosecuion, closed. That paper must be read.

Letter of Thomas Paine, to the People of France. Published and distributed gratis by the London Corresponding Society.

"*Paris, September* 25.

"(First Year of the Republic.)

"Fellow-citizens;—I receive, with affectionate gratitude, the honour which the late National Assembly has conferred upon me, by adopting me a citizen of France; and the additional honour of being elected by my fellow-citizens a member of the National Convention. Happily impressed, as I am, by those testimonies of respect shown towards me as an individual, I feel my felicity increased by seeing the barrier broken down that divided patriotism by spots of earth, and limited citizenship, to the soil, like vegetation.

"Had those honours been conferred in an hour of national tranquillity, they would have afforded no other means of showing my affection, than to have accepted and enjoyed them; but they come accompanied with circumstances that give me the honourable opportunity of commencing my citizenship in the stormy hour of difficulties. I come not to enjoy repose. Convinced that the cause of France is the cause of all mankind, and that as liberty cannot be purchased by a wish, I gladly share with you the dangers and honours necessary to success.

"I am well aware that the moment of any great change, such as that accomplished on the 10th of August, is unavoidably the moment of terror and confusion. The mind, highly agitated by hope, suspicion, and apprehension, continues without rest till the change be accomplished. But let us now look calmly and confidently forward, and success is certain. It is no longer the paltry cause of kings, or of this, or of that individual, that calls France and her armies into action. It is the great cause of ALL. It is the establishment of a new æra, that shall blot despotism from the earth, and fix, on the lasting principles of peace and citizenship, the great republic of man.

"It has been my fate to have borne a share in the commencement and complete establishment of one revolution (I mean the revolution of America). The success and events of that revolution are encouraging to us. The prosperity and happiness that have since flowed to that country, have amply rewarded her for all the hardships she endured, and for all the dangers she encountered.

"The principles on which that revolution began, have extended themselves to Europe; and an over-ruling Providence is regenerating the Old World by the principles of the New. The distance of America from all the other parts of the globe, did not admit of her carrying those principles beyond her own situation. It is to the peculiar honour of France, that she now raises the standard of liberty for all nations; and in fighting her own battles, contends for the rights of all mankind.

"The same spirit of fortitude that insured success to America, will insure it to France, for it is impossible to conquer a nation determined to be free! The military circumstances that now unite themselves to France, are such as the despots of the earth know nothing of, and can form no calculation upon. They know not what it is to fight against a nation. They have only been accustomed to make war upon each other, and they know from system and practice, how to calculate the probable success of despot against despot; and here their knowledge and experience ends.

"But in a contest like the present, a new and boundless variety of circumstances arises, that deranges all such customary calculations. When a whole nation acts as an army, the despot knows not the extent of the power against which he contends. New armies rise against him with the necessity of the moment. It is then that the difficulties of an invading enemy multiply, as in the former case they diminished; and he finds them at their height when he expected them to end.

"The only war that has any similarity of circumstances with the present, is the late revolution-war in America. On her part, as it now is in France, it was a war of the whole nation.—There it was that the enemy, by beginning to conquer, put himself in a condition of being conquered. His first victories prepared him for defeat. He advanced till he could not retreat, and found himself in the midst of a nation of armies.

"Were it now to be proposed to the Austrians and Prussians to escort them into the middle of France, and there leave them to make the most of such a situation, they would see too much into the danger of it to accept the offer, and the same dangers would attend them could they arrive there by any other means. Where then is the military policy of their attempting to obtain by force, that which they would refuse by choice? But to reason with d
throwing reason away. The best
ments is a vigorous preparation

"Man is ever a stranger t
which Providence regulates

things. The interference of foreign despots may serve to introduce into their own enslaved countries the principles they come to oppose. Liberty and Equality are blessings too great to be the inheritance of France alone. It is honour to her to be their first champion; and she may now say to her enemies, with a mighty voice, 'O! ye Austrians, ye Prussians! ye who 'now turn your bayonets against us; it is 'for all Europe; it is for all mankind, and 'not for France alone, that she raises the 'standard of Liberty and Equality.'

"The public cause has hitherto suffered from the contradictions contained in the constitution of the former Constituent Assembly. Those contradictions have served to divide the opinions of individuals at home, and to obscure the great principles of the revolution in other countries. But when those contradictions shall be removed, and the constitution be made conformable to the declaration of rights; when the bagatelles of monarchy, royalty regency, and hereditary succession, shall be exposed, with all their absurdities, a new ray of light will be thrown over the world, and the revolution will derive new strength by being universally understood.

"The scene that now opens itself to France extends far beyond the boundaries of her own dominions. Every nation is becoming her colleague, and every court is become her enemy. It is now the cause of all nations against the cause of all courts. The terror that despotism felt, clandestinely begot a confederation of despots; and their attack upon France was produced by their fears at home.

"In entering on this great scene, greater than any nation has yet been called to act in, let us say to the agitated mind, be calm. Let us punish by instructing, rather than by revenge. Let us begin the new æra by a greatness of friendship, and hail the approach of union and success. Your fellow-citizen,

"THOMAS PAINE."

Gentlemen, the first witness, who was called on the part of Mr. Horne Tooke, was major Cartwright; he said he was a member of the society for Constitutional Information, from its first institution; that doctor Brocklesby, a doctor Jebb, and a Mr. Lofft, were among the earliest members; their object was, to give to the public constitutional information; and particularly to promote a recovery of what they conceived their lost rights—meaning the rights of representation in the House of Commons; he said he never entertained an idea that the objects of the society were changed; that, for the last two years, it was in his power to attend scarcely at all; he was many years in the habit of attending; he never perceived any change of general sentiments; in the outset, they were in favour of universal suffrage, and annual parliaments; that the society was instituted before the duke of Richmond's plan; but the duke's conduct met with the approbation of the society: that the duke of Richmond's letter to colonel Sharman was circulated by the society; and that the plan, stated in that letter, received their approbation; he understands the duke of Richmond's bill, and his plan, in the letter to colonel Sharman, to be that which their approbation went to; he had many conversations with him upon the subject; he cannot pretend to say, that it was the sole object of the society to act upon the duke of Richmond's plan; the sole object was a radical reform in the House of Commons; but there was a considerable difference of opinion; that many would have been glad of obtaining considerably less than that; he said if he had perceived there had been any persons who were not friends to the king's government, he would have remained in the society, but it should have been for the purpose of removing such members; he never heard of such an idea, in the society; that no man had ever started such an idea; that no motion had been made of that kind.

The witness said, he had known the prisoner intimately sixteen years; that he always appeared, from his public conduct, and private conversations, to be a steady, firm, and inflexible friend to a reform in the House of Commons; he does not know that Mr. Horne Tooke has particular objections to the duke of Richmond's plan, but he did not entirely concur with it; that, of all the men he ever knew, he was the steadiest, and most invariable in his sentiments; that he never heard any thing fall from him, disrespectful to the office of royalty; but quite the reverse; he said, that at times, when other opinions were put abroad, he always found Mr. Tooke hold, that the regal and aristocratical branches of our constitution, were excellent in themselves; and that, if a reform in the other branches of the constitution could be obtained, that our constitution would, in his opinion, be the most perfect of any upon earth; he says this is the impression on his mind, of all his conversation; that he has not seen Mr. Tooke, since the spring of 1792; that down to that time he had observed no variation in his opinion. He said, he recollects an illustration of Mr. Tooke's, which shows that his objects did not go to those lengths which Mr. Paine's did; he was speaking of persons travelling in a stage coach, and getting out at different places; he said, when I find myself at Hounslow, I get out; others may go farther.

He said Mr. Tooke did not write the letter to the Society of the Friends of the People, which was answered upon the sixteenth of May, 1792; the witness himself subscribed it as chairman, and consented to its being sent; that it was written as a serious, friendly, and solemn warning to a new society, composed, in a considerable degree, of members of par

meeting at the Thatched House, about the middle of May, 1782, after his first motion in the House of Commons, in relation to a parliamentary reform; he thinks Mr. Horne Tooke was present; that the sense of the meeting was to use means to recommend a petition to parliament, in order to procure a reform; he said that there was no such idea as a convention of the people by affiliated societies; he did not consider that as a meeting of persons authorized to act for any but for themselves; he said he does not recollect any petition having been objected to in the House of Commons, as coming from persons in a delegated capacity; he does not know but that some of the persons present at the Thatched House might be deputed by others, but he does not know how they were constituted.

Mr. Sheridan was then called: he said he knows Mr. Horne Tooke; that he met him at several meetings, held for the purpose of obtaining a parliamentary reform; that he met him at different associations in the year 1780; he thinks he saw him at a meeting, or convention of delegates, from different counties and towns, assembled to promote the object of a parliamentary reform, and to act for those who deputed them; that he, Mr. Sheridan, was delegate from Westminster, with five or six other gentlemen, to act with the other delegates from other associations, and to promote the object of parliamentary reform by legal and constitutional means, and so far to interest and engage the public mind in that object, that the influence of the public opinion might so far operate upon the House of Commons as that they might ultimately gain their object, without which influence there were no hopes of success from the House of Commons; that they confided the means of doing this to the delegates entirely; that in all their papers and resolutions they stated themselves to be delegates acting for other people; he says that no person could belong to those meetings without knowing that it was so, because such a person must have been himself appointed by others; he says he recollects no instance of Mr. Horne Tooke's dissenting from the propositions that were then made; he does not know whether Mr. Tooke was a delegate; there were Yorkshire and Devonshire delegates; that they considered themselves as delegated generally to use the strongest legal means to obtain their object; he says that it was thought that petitions, unless they came from the whole body of the people, were frivolous and useless, and they conceived that they should have delegates in larger meetings from all parts of the kingdom; they did not mean to operate upon the House of Commons by force or violence, but by that degree of awe and respect which they conceived the House of Commons were bound to pay, and must pay, to the sense of the people at large when collected.

He said he recollects a meeting to celebrate the establishment of liberty in France, in the year 1790. Upon that occasion he moved a resolution, drawn up the day before by the Whig Club. Mr. Horne Tooke, he says, made no objection to his motion, but proposed an amendment. Mr. Tooke stated, that an unqualified approbation of the French revolution, in the terms moved, might produce an ill effect out of doors, a disposition to a revolution in this country, or, at least, be misrepresented to have that object; he adverted to the circumstance of their having all of them national cockades in their hats; he proposed to add some qualifying expression to the approbation of the French revolution, a declaration of attachment to the principles of our own constitution; he said Mr. Tooke spoke in a figurative manner of the former government of France; he described it as a vessel so foul and decayed, that no repair could save it from destruction; that, in contrasting our state with that, he said, thank God the main timbers of our constitution are sound; he had before observed, however, that some reforms might be necessary; he said that sentiment was received with great disapprobation, and with very rude interruption, insomuch that lord Stanhope, who was in the chair, interfered; he said it had happened to him, in many public meetings, to differ with and oppose the prisoner, and that he has frequently seen him received with very considerable marks of disapprobation, but he never saw them much affect him; he said, that he himself objected to Mr. Tooke's amendment; he thinks he withdrew his amendment, and moved it as a separate motion; he said it was then carried as unanimously as his own motion had been; that original motion, and separate motion, are in these words—"That this meeting does most cordially rejoice in the establishment and confirmation of liberty in France; and it beholds, with peculiar satisfaction, the sentiments of amity and good will, which appear to pervade the people of that country towards this kingdom, especially at a time when it is the manifest interest of both states, that nothing should interrupt the harmony which at present subsists between them, and which is so essentially necessary to the freedom and happiness, not only of the French nation, but of all mankind." Mr. Tooke wished to add to his motion some qualifying clause, to guard against misunderstanding and misrepresentation: that there was a wide difference between England and France; that in France the vessel was so foul and decayed, that no repair could save it from destruction; whereas, in England, we had a noble and a stately vessel, sailing proudly on the bosom of the ocean; that her main timbers were sound, though it was true after so long a course of years, she might want some repairs. Mr. Tooke's motion was —"That we feel equal satisfaction in the subjects of England, by the virtuous

of their ancestors, have not so arduous a task to perform as the French have had, but have only to maintain and improve the constitution which their ancestors have transmitted to them:" this was carried unanimously.

Upon his cross-examination Mr. Sheridan said, that this meeting was upon the 14th of July, 1790; that in 1791 there was a meeting, but he happened not to be present; that at the meeting in 1790, they hissed and interrupted Mr. Tooke, condemning, as he thought, the moderation of his principles; he said there was a meeting of delegates, in 1780, he does not recollect the meetings in 1782; he said that the meeting in 1790 was soon after the election for Westminster; there was nothing cordial in the members of the Whig Club, who attended, towards Mr. Tooke; that there was a meeting of delegates somewhere in King-street; he cannot say how many meetings there were, nor for what places they attended; and he says that afterwards, he thinks there was a meeting in Guildhall; he said that he forgets the nature of the meeting at the Thatched House, or who were present; that there was a meeting afterwards at the duke of Richmond's, when it was proposed that Mr. Pitt should be requested to move a reform in parliament, in the House of Commons.

Mr. Pitt afterwards said that he spoke of the meeting at the Thatched House only, when he said, that the persons who met there, met for themselves; that he was at the meeting at the duke of Richmond's, at which there were many members of parliament, and some who were not members of parliament, and who might have been delegated from the counties and towns.

Lord Stanhope was then called; he said he was in the chair at the meeting held on the fourteenth day of July, in the year 1790, one year after the Bastille had been pulled down; that they met to celebrate that glorious event; he said that there were several hundred persons there, of a very respectable description; that the prisoner was there; he said that Mr. Sheridan also was present; that Mr. Sheridan's health was drank, and then Mr. Sheridan made his motion; that Mr. Horne Tooke said he was not used to flatter men, upon that he was hissed; that he spoke, at the meeting, of the danger of being misunderstood, and proposed to add something about our own constitution; that he recollects he made use of the expression, that our timbers were sound; he was very much hissed and hooted, and it was with difficulty he procured him a hearing; they were unwilling to mix Mr. Tooke's sentiments with Mr. Sheridan's, and therefore Mr. Tooke's motion was made separately, and was carried; he said, at that time, the constitution of 1789 had been established, but that it was not perfected till 1791; many of that description of people, whom he knew as Foxites, were there, and that they hissed Mr. Horne Tooke; he said he is persuaded nobody there had any intention against the government; he spoke of his being in the House of Commons in 1785, he came in at the general election in 1780; he attended many meetings for the reform of parliament; he saw Mr. Horne Tooke at several; he is perfectly clear he saw him at the Thatched House in 1782, a short time after Mr. Pitt's first motion was negatived; he said that was a motion to go into a committee, the second motion was more particular, and his third motion, in the year 1785, was, to advance a million sterling, to buy up the burgage tenure boroughs; he said he was at the Thatched House with Mr. Pitt, Mr. Wyvill, and the duke of Richmond; he is positive to his being at the meeting in 1785, and he thinks he was there in 1782; he said the object of the meeting was, a recommendation to the people to meet during the summer, for the purpose of enforcing, by legal means, a parliamentary reform; he said he is sure Mr. Tooke was present at the meeting in 1785, the duke of Norfolk, then lord Surrey, was in the chair; that Mr. Wyvill brought that meeting together; he said that Mr. Wyvill was a warm friend of Mr. Pitt's last plan; that an account of this plan was written, for the meeting, by Mr. Wyvill, and Mr. Wyvill moved for a specific approbation of that plan; that Mr. Fox objected to it, Mr. Tooke was for it, and debated for it; that he has never been in habits with Mr. Tooke in private life; that there was a meeting of delegates in 1780 and 1781.

Mr. Wyvill said he was at the meeting in 1785; that it was called chiefly at his desire, with a view to obtain a resolution approving of Mr. Pitt's plan, in hopes to unite the friends of parliamentary reform, that they might make another application with united support; he hoped for greater effect from united support, than from disunited; he said Mr. Tooke was there; that there was no proposition to thank Mr. Pitt, the proposition was, to declare that Mr. Pitt's proposed reform would be a substantial improvement of the constitution; he said that was negatived; he said Mr. Tooke spoke in favour of it, and voted in favour of it; he believed Mr. Tooke was present at the Thatched House, in 1782; that the object was, to endeavour to animate the people to meet in respective districts, to petition parliament for a reform, and it was carried unanimously; he said that the resolutions were in writing.

Mr. Macnamara was then called; he said he attended the Constitutional Club in 1788, which is a club that was instituted by the friends of lord Hood, to secure the freedom of election for the city of Westminster; they met at the Thatched House; [that it was established on lord Townshend opposing lord Hood's re-election; there were resolutions proposed there by Mr. Tooke, which were constitutional and loyal, such as became a well-wisher to the king and government of

meeting at the Thatched House, about the middle of May, 1782, after his first motion in the House of Commons, in relation to a parliamentary reform; he thinks Mr. Horne Tooke was present; that the sense of the meeting was to use means to recommend a petition to parliament, in order to procure a reform; he said that there was no such idea as a convention of the people by affiliated societies; he did not consider that as a meeting of persons authorized to act for any but for themselves; he said he does not recollect any petition having been objected to in the House of Commons, as coming from persons in a delegated capacity; he does not know but that some of the persons present at the Thatched House might be deputed by others, but he does not know how they were constituted.

Mr. Sheridan was then called: he said he knows Mr. Horne Tooke; that he met him at several meetings, held for the purpose of obtaining a parliamentary reform; that he met him at different associations in the year 1780; he thinks he saw him at a meeting, or convention of delegates, from different counties and towns, assembled to promote the object of a parliamentary reform, and to act for those who deputed them; that he, Mr. Sheridan, was delegate from Westminster, with five or six other gentlemen, to act with the other delegates from other associations, and to promote the object of parliamentary reform by legal and constitutional means, and so far to interest and engage the public mind in that object, that the influence of the public opinion might so far operate upon the House of Commons as that they might ultimately gain their object, without which influence there were no hopes of success from the House of Commons; that they confided the means of doing this to the delegates entirely; that in all their papers and resolutions they stated themselves to be delegates acting for other people; he says that no person could belong to those meetings without knowing that it was so, because such a person must have been himself appointed by others; he says he recollects no instance of Mr. Horne Tooke's dissenting from the propositions that were then made; he does not know whether Mr. Tooke was a delegate; there were Yorkshire and Devonshire delegates; that they considered themselves as delegated generally to use the strongest legal means to obtain their object; he says that it was thought that petitions, unless they came from the whole body of the people, were frivolous and useless, and they conceived that they should have delegates in larger meetings from all parts of the kingdom; they did not mean to operate upon the House of Commons by force or violence, but by that degree of awe and respect which they conceived the House of Commons were bound to pay, and must pay, *to the sense of the people* at large when collected.

He said he recollects a meeting to celebrate the establishment of liberty in France, in the year 1790. Upon that occasion he moved a resolution, drawn up the day before by the Whig Club. Mr. Horne Tooke, he says, made no objection to his motion, but proposed an amendment. Mr. Tooke stated, that an unqualified approbation of the French revolution, in the terms moved, might produce an ill effect out of doors, a disposition to a revolution in this country, or, at least, be misrepresented to have that object; he adverted to the circumstance of their having all of them national cockades in their hats; he proposed to add some qualifying expression to the approbation of the French revolution, a declaration of attachment to the principles of our own constitution; he said Mr. Tooke spoke in a figurative manner of the former government of France; he described it as a vessel so foul and decayed, that no repair could save it from destruction; that, in contrasting our state with that, he said, thank God the main timbers of our constitution are sound; he had before observed, however, that some reforms might be necessary; he said that sentiment was received with great disapprobation, and with very rude interruption, insomuch that lord Stanhope, who was in the chair, interfered; he said it had happened to him, in many public meetings, to differ with and oppose the prisoner, and that he has frequently seen him received with very considerable marks of disapprobation, but he never saw them much affect him; he said, that he himself objected to Mr. Tooke's amendment; he thinks he withdrew his amendment, and moved it as a separate motion; he said it was then carried as unanimously as his own motion had been; that original motion, and separate motion, are in these words—"That this meeting does most cordially rejoice in the establishment and confirmation of liberty in France; and it beholds, with peculiar satisfaction, the sentiments of amity and good will, which appear to pervade the people of that country towards this kingdom, especially at a time when it is the manifest interest of both states, that nothing should interrupt the harmony which at present subsists between them, and which is so essentially necessary to the freedom and happiness, not only of the French nation, but of all mankind." Mr. Tooke wished to add to his motion some qualifying clause, to guard against misunderstanding and misrepresentation: that there was a wide difference between England and France; that in France the vessel was so foul and decayed, that no repair could save it from destruction; whereas, in England, we had a noble and a stately vessel, sailing proudly on the bosom of the ocean; that her main timbers were sound, though it was true, after so long a course of years, she might want some repairs. Mr. Tooke's motion —"That we feel equal satisfaction t[hat] subjects of England, by the virtuous e[xer]

of their ancestors, have not so arduous a task to perform as the French have had, but have only to maintain and improve the constitution which their ancestors have transmitted to them:" this was carried unanimously.

Upon his cross-examination Mr. Sheridan said, that this meeting was upon the 14th of July, 1790; that in 1791 there was a meeting, but he happened not to be present; that at the meeting in 1790, they hissed and interrupted Mr. Tooke, condemning, as he thought, the moderation of his principles; he said there was a meeting of delegates, in 1780, he does not recollect the meetings in 1782; he said that the meeting in 1790 was soon after the election for Westminster; there was nothing cordial in the members of the Whig Club, who attended, towards Mr. Tooke; that there was a meeting of delegates somewhere in King-street; he cannot say how many meetings there were, nor for what places they attended; and he says that afterwards, he thinks there was a meeting in Guildhall; he said that he forgets the nature of the meeting at the Thatched House, or who were present; that there was a meeting afterwards at the duke of Richmond's, when it was proposed that Mr. Pitt should be requested to move a reform in parliament, in the House of Commons.

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Mr. Macnamara was then called; he said he attended the Constitutional Club in 1788, which is a club that was instituted by the friends of lord Hood, to secure the freedom of election for the city of Westminster; they met at the Thatched House; [that it was established on lord Townshend opposing lord Hood's re-election; there were resolutions proposed there by Mr. Tooke, which were constitutional and loyal, such as became a well-wisher to the king and government of

the country; he said they were distinguished by a uniform, a blue coat, with an orange coloured cape, the button had upon it " king and constitution;" Mr. Tooke was a member of the club, and one of the original founders; Mr. Rose also wore the uniform, Mr. Pitt, lord Frederick Campbell, Mr. Fielding, and a great number of other persons; that from that time he got into habits of intimacy with Mr. Tooke, and he thinks he never met any gentleman, in a public or private character, who understood the constitution of the country better than Mr. Tooke; he believes no man ever existed that wished better to the constitution of the country, in King, Lords, and Commons.

Mr. Macnamara said he went abroad in 1789, and staid till the middle of last June; that he was at Paris at the latter end of October, or the beginning of November, 1789; he got as far as Tours, and returned; he said that for ten months before the third of August, 1792, he was at Paris; upon the third of August he left Paris, and went to Switzerland, and from thence into Italy; he said he had frequent opportunities of conversing with Mr. Tooke; that he never received so much information from any man, nor did he know any one more loyal, or more attached to the constitution, but that yet he was determined upon a reform of parliament; he said that the government of France was in a wretched and deplorable state, before the time he speaks of; that there were many executions shocking to humanity; that he was in Paris at the latter end of October, and the beginning of November, 1789, and the brutalities he saw were shocking to humanity.

Mr. Fielding was then called; he said he belonged to the club mentioned by the last witness, being counsel for lord Hood; that he wore a blue coat, with an orange cape, and he several times saw the prisoner there, and that he was frequently of parties, which he attended as counsel; he remembers Mr. Tooke being there upon the fifth of November, 1788.

Lord Frederick Campbell was the next witness; he remembers that he dined at Willis's, upon the fifth of November, 1788, and that Mr. Tooke moved some resolutions, but he cannot recollect the import of them; he recollects being displeased, because they were moved without his knowledge, and he spoke rather sharply to Mr. Tooke; he was asked by Mr. Tooke, whether he, Mr. Tooke, had not answered him softly, he said he does not remember his answering him softly; he said some resolutions came from the Whig Club, and the Revolution Society.

Lord Camden said he was at this meeting; he sat near lord Frederick Campbell; a letter came from the Whig Club; he recollects Mr. Tooke's proposing some resolutions, and he believes they were unanimously carried; he thinks lord Frederick Campbell expressed some displeasure at not being informed of the resolutions before they were moved; he said he thinks the resolutions were expressive of loyalty to the king; he is perfectly certain that nothing was said against the king, but the turn of the resolutions, he thought, was very respectful, professing attachment to the king; he said he has had no intercourse with Mr. Tooke since the year 1788.

Mr. Beaufoy was then called; he said he was at a meeting at Willis's, of the friends of lord Hood; he did not wear the uniform, but he remembers dining there; lord Hood was in the chair: he said when the letter came from the Whig Club, he, the witness, addressed the meeting on the subject of the revolution; that he was applied to by the Revolution Society to move for a bill in parliament, for a solemn celebration of the anniversary of the Revolution; he recollects Mr. Tooke communicated some resolutions to him; he said, from his very imperfect recollection, they might be such as were read. This gentleman underwent a cross-examination, but nothing arose out of it, and therefore I do not state it.

Thomas Symonds, a student of the Inner Temple, said he has been a member of the Constitutional Society for two or three years; he is acquainted with Mr. Tooke; he has seen him at his own house, and other places; he sometimes attended the meetings of the society; that their object was a reform in the House of Commons; he said, upon an average, fourteen or fifteen persons attended; that the original object was never departed from, and that every act of theirs, taken with the circumstances, tended to that sole object; he said nothing led him to suspsct any change of sentiment; he frequently saw the prisoner there; that all his expressions went solely to a parliamentary reform, and that he was strictly in favour of the ancient aristocracy; he said that the society had the same object; he did not attend during the convention at Edinburgh, on account of his ill health; he said he did not know the characters of either of the delegates, and did not know enough of them to wish them to go, and he thought it might be mistaken by the public; he said he had no reason to believe that any thing criminal was intended; he remembers a delegate, coming from the London Corresponding Society, who proposed a convention; he thinks he was in the chair; the object was to propose a general concurrence, to obtain a parliamentary reform; he said if there had been any idea of a conspiracy to subvert the government, he thinks he must have known it; he had no suspicion of any such thing, nor has he any reason now to suspect any such thing was meant; he said he was present at the report of the joint conference on the eleventh of April; it was resolved by the committee, " That it apr
ed desirable that a general meeting. o
vention of the Friends of Liberty,
called," but the society resolved to

the word "convention;" there was some debate about the word; that he was the first to oppose it, because it might mislead the public mind to think they had some other object in view; he said he had not the slightest reason to suspect that they were doing any thing wrong, there was some little discussion, and it was argued that there was no material difference, at last it was agreed that that word should be omitted; he said a fair representation of the people, in their sense, did not go to the length of universal suffrage; he has fifty times heard Mr. Tooke speak with reprobation of universal suffrage; that he never heard any proposition or debate that touched the king or the hereditary office of the House of Lords, but solely towards obtaining parliamentary reform; that there never was the slightest idea of obtaining by unconstitutional means, or force, any reform in parliament; he never heard an idea of arms; he said he never heard any idea of putting down our liberties, in order to emulate the French; he knows nothing of the meetings of the committees; he said that he had frequent conversations with Mr. Joyce, he always found his opinions quite moderate, opposed to the violence that was in other people's minds; he said that Mr. Sharpe was almost constantly at dinner there; that his object was the same as theirs; that as to Mr. Bonney, he never knew a more moderate, quiet man in his life; that he knew Mr. Pearson but slightly; that he had no reason to believe that he had any design to overturn the government; that he saw Mr. Wardle but two or three times; that their object was parliamentary reform, and that they pursued that object up to the eleventh of April, 1794, and if there had been any thing criminal he must have known it.

He said, upon his cross-examination, that he was chosen a member of this society in June, 1792; that he was proposed by Mr. Joyce; that he never had heard of Mr. Joyce being present at the National Convention when the address was presented; he never heard of a drawing pointing out the way to Hell by Hanover; he said he did not know that there were any proceedings of the London Corresponding Society, in the name of Hardy, in the hand-writing of Mr. Tooke; that he never saw the letter which was sent to Norwich upon the sixteenth of April; he said if they had proposed to set aside the authority of the King, and the House of Lords, he would not have staid in the society, or consented to it; he thinks he was ill at the time of the address of the London Corresponding Society to the National Convention; he said he did not know that Hardy had written to Mr. Tooke, or that Mr. Tooke corrected the constitution of the London Corresponding Society, or that Margarot had written to him about it; he said that if the address had been confined to France, he thought they should have used stronger language than they would have done respecting England; he says he does not recollect any letter from the society in which there were these expressions, "the vipers Monarchy and Aristocracy;" he did not know that the words, "success" and "its efforts" were in the prisoner's hand-writing; he said he never knew that Frost had said that he hoped France might soon felicitate a National Convention in England; that he never heard of the president's answer, but that he should have thanked Mr. Frost for executing his commission; he said he has no recollection of the address upon the sixth of August, and he knew nothing of the proof copy being sent to Mr. Tooke, and nothing of Skirving's letter; he said he heard of the meeting at the Globe Tavern, and he heard of a meeting, and strong resolutions, but he was not present on the seventeenth of January—that meeting where it was voted, "That law ceases to be an object of obedience whenever it becomes an instrument of oppression;" he said he was not present upon the twenty-fourth of January; he has not now read these resolutions of the London Corresponding Society; that he did not know of Thelwall being paid for printing twenty-five thousand copies of that address: he does not remember a communication with the Constitutional Society by the London Corresponding Society of their intention to meet on the fourteenth of April; he cannot say that he knew Thelwall was an associated member; he knew of the printing of Paine's letter to Mr. Dundas, and he knew of thanks being given to Joel Barlow.

Colonel Money was then called, but his evidence was of a nature which has no application to the present case, and I was of opinion it could not be received.

Mr. Maxwell said he knows Mr. Tooke; that he has known him ever since the year 1793; he frequently visited him, generally on a Sunday; he said that Mr. Tooke disapproved of universal suffrage; Mr. Tooke said, he thought it would be a good plan that they should stand for close boroughs and then petition, in order to expose the manner in which those elections were made, and to force parliament to agree to a reform; he said he never heard Mr. Tooke say any thing hostile to the crown, or the hereditary office of the peers; he remembers one gentleman, a Mr. Walker of Manchester, saying he would be ready to stand forward as a candiate for one of those boroughs, in order to bring on the question; his account of himself is, that he chiefly resides in Linlithgow, in Scotland, but is in town every year; he said he was not acquainted with Mr. Tooke till the latter end of the year 1792.

Mr. May said, he has known Mr. Tooke better than two years; that they have often been for a long time at each other's houses; they have often drank very freely; that he tried to get at Mr. Tooke's real sentiments; he found him a well wisher to the king, and the aristocracy: and that the only change he wished, was in the House of Commons. He said, the last

conversation he had with him, was a short time before he was taken up; that, when he had drank a good deal of wine, and when he was sober his principles were the same; that he reprobated Paine's principles; and said this country was not fit for a republic; and he told the witness, he had refused being a delegate to the Scotch Convention.

Captain Harwood, who has a troop in the ninth regiment of dragoons, said, he has known the prisoner most intimately; that his uncle introduced him to Mr. Tooke, about six years ago; who also has a great friendship for Mr. Tooke; he said that they continually conversed upon political subjects; that Mr. Horne Tooke had the highest veneration for the government, in King, Lords, and Commons; but he said, that the House of Commons wanted reform: that the boroughmongers ought to be made ashamed of themselves; that they should get this reform by themselves, that is, by the Commons; he said he made a proposal to his friends, to stand for rotten boroughs; he himself proposed to be one; Mr. Walker proposed to be one, and Mr. Maxwell, and others were also proposed.

Upon his cross-examination, he said, Mr. Tooke was steady in those principles; he said, he was a member of the Constitutional Society; that he was present upon the 23rd of March 1792; he remembers the twelve members from Sheffield being associated with the constitutional society; he said, he cannot recollect what the answer was, that the friends of the people sent to this society; that twelve persons from Norwich, were also associated with their society; he said, he has heard of the address to the Jacobins: he does not know the contents of that address; he said that Paine and Barlow were honorary members; that the society approved of part of their works; he knows nothing of the publishing of them; he did not know that Mr. Hardy had consulted with Mr. Tooke, on the address of the London Corresponding society, to the National Convention of France; he said he was not in London in the month of November; he remembers a letter from Norwich; it was voted, that Mr. Frost should send an answer to it, afterwards it was referred to the witness to give an answer to it; he forgot to answer it; he handed the letter to Mr. Vaughan, and desired him to get it answered; when he came to the society; he found that an answer had been prepared by somebody, and that an answer was sent. He said, he remembers the thanks being voted to Frost; he said, he never saw, or heard the contents of the papers, stating the form in which Frost presented that address to the National Convention of France or the president's answer; he remembers it was said, that the Norwich letter was a foolish one. He said, he never visited the societies at Norwich; but he knew individual members of those societies; he said, he did not know of the letter, at the time he was at Norwich; that he had not been in London for twelve months, and he never saw the associated members, from Norwich and Sheffield attend.

Mr. Rous was then called:—he said, he is a member of the society of the Friends of the People; he remembers a letter coming from the London Corresponding Society, touching joining in the Convention, that they were about to call, in the spring of 1794; that there was a pretty full meeting of the Friends of the people on that occasion; that the question of acceding to the proposition, was debated, and the proposal was rejected; the reason for objecting to that measure was, that a bad use might be made of it.

The bishop of Gloucester was then called:—he said, he has known the prisoner for forty years; that they were for many years acquainted, and not slightly, but very confidentially, and very intimately; that their acquaintance began in the year 1754 in the University at Cambridge, in Saint John's college, where they took their bachelor's degree; he was asked about Mr. Horne Tooke's degree of master of arts, which does not properly belong to this case; he remembers an opposition, the ground of which he did not state very distinctly, but understood that opposition to have originated from some letters which appeared in the public papers; that lord Montfort took an active part in it; that there was a strict inquiry into Mr. Tooke's conduct, and there was nothing to Mr. Tooke's prejudice arose from that inquiry: he thought at that time, that there was nothing that ought to prevent Mr. Tooke having his degree, and he voted for his having his degree. He said, he never knew him vary in his political sentiments; that he never had reason to collect, that Mr. Tooke had any aversion to any of the establishments in this country; that he is inclined to think him a very studious man—more so than many men; that he believed he might have assisted Mr. Tooke with books, upon grammatical subjects, from the Bodleian library; he said, he knew that Mr. Tooke was much employed, in his attention to grammatical pursuits: and never had reason to believe that he was engaged in any thing that was seditious, and hoped he was not.

Gentlemen, the evidence closed with producing the record of the acquittal of Thomas Hardy, who was indicted with the prisoner; it was proper that that aquittal should be in evidence before you, in order that it might serve as an answer to any part of the evidence that was to reach Mr. Horne Tooke, through the medium of first proving Hardy to be a party in the conspiracy; a man acquitted cannot be taken to be a party in the conspiracy and consequently Mr. Horne Tooke cannot, by that evidence, be affected to be a party in this conspiracy.

Now, gentlemen, having gone through the whole of the evidence, the case is ripe for your judgment. I am sure I ought to thank you, in the name of the public for the patience

and attention with which you have listened to this long detail of evidence; as also, with which you have at great personal inconvenience, conducted yourselves throughout the whole of the trial. You have now a very serious duty imposed upon you; but, after the pains you have taken to make yourselves masters of the case, it is a duty which you will discharge with satisfaction to your own consciences, and consequently with satisfaction to your country.

Gentlemen, I stated to a former jury, that I thought it was impossible that there could be any entanglement, in this case, upon any point of law; I apprehend that it is impossible (though much was said upon the law, in this, as in the former case)—that it is quite impossible, that any practical inference can arise, from the discussion, material to this case; for it was not denied, and it was impossible that it could be denied, that a jury ought to find, that he who means to depose the king; compasses and imagines the death of the king; it is, in truth, a presumption of fact arising from the circumstance of intending to depose, so undeniable, and so conclusive, that the law has adopted it, and made it a presumption of law; and it is in that manner, that the law has pronounced, that he who means to depose the king, has compassed and imagined the death of the king. All the writers state the law to be so; every one of those, whose names have been mentioned, and whose general doctrines were also quoted, concludes with saying, that as to the case of a conspiracy to depose the king, that that is a decisive overt act of compassing the death of the king.

In sir John Friend's case, which was quoted to you, my lord Holt did expressly state it so. In the case of my lord Russell, the overt act was of a different nature, and more capable of explanation; therefore it was there properly stated to be evidence upon which the jury might exercise a judgment, and in which by possibility, they might say that the man who had attacked the king's guards might not mean to compass the king's death; but it might be in some affray, or some way or other, which might take off the force of that evidence.

Gentlemen I shall therefore give you no farther trouble upon that head; I speak in the hearing of my lord chief baron, and my brothers, who when I stated the law before, adhered to the law as I stated it. I stated it as it has been understood for centuries; and God forbid, that in a case in which no reasonable man can doubt but that he who means to depose the king means to destroy him; and that his destruction is necessarily connected with his deposition; God forbid, I say, that a jury should doubt that he who means to depose the king, compasses and imagines the death of the king; I will therefore trouble you no farther upon that head; the case before you is, in truth, a case of fact; but for the sake of others, and for the sake of a numerous bar attending here, and that it may not be understood, that the court did agree to some things which were laid down, and particularly to a proposition laid down in a very admirable speech yesterday, I must take notice, that I cannot agree to the distinction that was taken, between the case of a crime depending upon the common law, where it was supposed the judges were to declare the law, as it was composed of the precedents declared by the judges, and the case of a crime declared by act of parliament as if in the case of a crime declared by act of parliament the jurisdiction of the court was concluded; I take it to be, for the first time, so stated; I take it that there is nothing so clear, as that, let the proposition in an act of parliament be what it may, more or less distinct, it is always a question of law, what is the meaning and the true import of that act of parliament, and whether any case of fact that can be stated, is a case that comes within the meaning of that act of parliament, or no; —so it has been constantly stated, in all my experience, and such is the theory of the law, in my apprehension. In this place where I now sit, and in the course of an experience of thirty years and more, hundreds and hundreds of times it has been the subject of solemn debate, whether the case stated in evidence did, or not, fall within the law; no distinction can be taken in this case, because it happens, that the description of the offence, in the statute of Edward the third, is comprised in two or three words; the law may be clearer upon that account; but the rule of construction with reference to the question, whether it should be taken to be the construction of law, a mere matter of fact, is exactly the same; till this day, no man ever doubted, that in a case of treason for levying war, what is a levying war, is a question of law; or for adhering to the king's enemies, what will amount to adhering to the king's enemies, is a question of law.

In a case of levying war, which all the gentlemen at the bar will remember, when I mention it—the case of Dammaree and Purchase; there was a special verdict, in which the direct question was, whether the fact that was stated did, or did not amount to a levying of war; there was a difference of opinion among the judges upon it; but the majority were of opinion, that the fact amounted to levying war; and the prisoner had judgment, as in a case of high treason. I have said thus much, that error may not get abroad; it was observed at the bar, that this is an age of innovation; it is necessary we should keep to our principles, and that we should rally round the law; and therefore, any departure from the principles of law ought to be taken notice of. At the same time that I observe upon this part, in which I take it, the law was not correctly stated, I have great pleasure in doing justice to the other parts of that speech, which I heard with as much pleasure

as I ever heard any speech in my life. I never heard a speech that was, in all respects, fitter to be offered to a jury, by a council assigned for the prisoner, in a case of high treason, where very much depends upon the counsel keeping themselves very strictly within the line of their duty, giving the Court and the jury effective assistance, in the discussion of the law, and in the examination of the fact; and in all those discriminations, more especially in a complicated case of evidence, which their learning and abilities would enable them to make. The putting the case in every possible light, in which it can be put for a prisoner, is not only the right of the prisoner, but is essentially useful to the public justice of the country; as it enables those, who are to decide, to see where the truth of the case lies. Having said this, for the sake of others, and you will excuse me, gentlemen, for having for a moment, departed from the question before you; I now return to it.

Gentlemen, the case for your consideration, is a case of fact; and a great satisfaction it is to me, that if, under the pressure of the fatigue which I have undergone, any great omissions may happen to be made by me, the attention that you have shown to the evidence, will enable you to supply those defects. The mass of this evidence is quite new to you, except so far as you may have read it, through the imperfect medium of accounts, which newspapers may have given you of it; it is, to us, the second laborious investigation; perhaps that ought to enable us the better to assist the jury; but I am not quite sure that it may have that effect; the mind is sometimes overborne by the pressure of such a quantity of materials; and perhaps the repetition of it may rather contribute to burden it still more. I am afraid that is my case; I shall, however, give you the best assistance I am able.

Gentlemen, there could be but two general views of the evidence. First, as it applies to the proof of a general project, to establish a national convention, which should usurp the powers of government; the second, and a totally distinct question, is, how far the evidence applies, to fix upon the prisoner a concurrence and a participation in that design; from the course the evidence has taken, I think these two distinct propositions will resolve themselves into one; and that the question will be, whether this prisoner has been concerned, and has participated in a plan to establish a national convention, which should usurp the powers of the government; if he has done so, he has been concerned in a plan to depose the king; for the moment the powers of the government are usurped, the king is deposed; and it is difficult to draw the line, and to say, that, if they are usurped for a particular purpose, and to a particular extent, *that the king* should not be said, *in that case, to be* deposed; the kingly authority is gone, in that instance, and to the extent to which such usurpation may reach; and all the mischiefs, all the dangers, to the person of the king, will follow; because the king is bound to support his government, he is bound to restrain that usurpation, even at all the hazards which Mr. Attorney General alluded to yesterday; so that any plan for any body of men to take upon themselves the power of the government of the country, to assume or to supersede the legislative authority of the country, seems necessarily to involve in it that deposing of the king of which I have been speaking. Attacks upon the executive government, are of a very different nature; they are a resistance to the laws, but not overturning the laws; for unless they succeed to the extent of destroying the laws themselves, the laws will have energy enough to defend themselves; and to bring the authors, if any violence is offered to them, to punishment; but if the laws themselves are gone, for one moment, the whole government is gone—the kingly authority is gone—and every thing that belongs to the government is gone.

Gentlemen, in point of fact, a project for a national convention, and the existence of the actors in that project, are clearly made out. It is very certain that there were persons who had an intention of holding a convention; and upon the evidence, I think, it cannot well be denied by Mr. Horne Tooke, that he was a participator in it, though not present at the meeting of a joint committee, or a commitee of co-operation, in which the plan was discussed—I think it can hardly be denied, that Mr. Horne Tooke was a party participating in the plan of a national convention; but the question that is material for him to dispute, and which is material for you to consider, is, for what purpose was that convention to be held. In this question, the intent makes a part of the description of the overt act of the crime: and the intent here is a mere matter of fact. The intent is often connected with the fact of the charge in such a way that it is not a part of the crime. A man who does me a certain injury, must make me satisfaction for it, because he has done it; and he cannot shelter himself under any intent that he had which he may insist upon was innocent; so, where he has committed that fact which the law has qualified with crime, the intent, though formally alleged, is considered as a necessary incident to the fact, and is not a matter for inquiry; but in a case of this nature, it is a necessary ingredient in the fact, a part of the fact, and to be proved just as much as any other part of the fact; and it is in truth to this point of the intention, with which this convention was to be held, that the whole series of the transactions in the evidence applies.

There is in the evidence a chain of circumstances, all concluding to one point, to prove the

intent; and this could not be justly compared to cumulative treasons, making up some one treason, that is not the nature of the evidence, nor the application of the evidence; therefore, it is totally unlike the case of lord Strafford—it is totally unlike every case in which any such idea of cumulative treason was ever talked of or discussed. There is no one of these acts, with an exception perhaps of one, that Mr. Attorney General thought it right to state as a distinct overt act of treason; but otherwise no one of these acts can be considered as treason in itself, nor forty of them as making up any treason from their accumulation; but they are to be considered as evidence of an intent; when the question is, what a man's intent is, it is to be proved by a thousand circumstances—it may be proved by a single fact, or may be proved by a chain of circumstances that are distinct, and as much dispersed through a voluminous body of evidence, as they are in this case, though a complicated evidence of this nature does not very often occur.

Gentlemen, the intent avowed by the parties engaged in this project of a convention, is a reform of the Commons House of Parliament, and that intent is innocent; but the prosecutors undertake to show you that this is not the true intent; they say that the words ought not to be so understood; they remark that there is an equivoke in the words which these persons use; that the words parliamentary reform are used—radical reform is used—full representation of the people in parliament is used—full and free representation of the people in general, without saying in parliament, is used; all of which, they say, are words that have in them an equivoke, They admit that when men are speaking of the constitution of England, as in a King, Lords, and Commons, you would understand these words without any equivoke in them, as applied to the Commons House of Parliament; that you would, in favour of innocence, in a case where a party is accused of a crime in respect of an intent that has relation to that subject—that you would understand the words in that sense which was most favourable for the prisoner, and therefore construe them to mean a representation in the Commons House of Parliament, unless you found yourselves obliged to conclude that they import a different thing; and therefore, for the prosecution, they direct you to the context of these words, where they say you will find the true interpretation of the words, as well as the true intent of this measure of holding this National Convention.

Now, gentlemen, I shall say to you, as I did upon the former occasion, that this interpretation of words, this intent of the party accused, ought not to be left to be made out by nice and verbal criticism. I say, as I did last night, respecting the Southwark declaration, where the words are "representative government," that representative government, in the strict sense, does not accord with the idea of a government by King, Lords, and Commons, but that people may express themselves not with grammatical correctness, and that they may mean the very things they ought to mean, though they use the words "representative government;" and that, therefore, you are to look further. When you found, in that same declaration, the words "equal and active citizenship," you might then begin to doubt what the parties meant by these words—"a representative government." Therefore, you will consider the words which these men have used, with their context; and you will look at the conduct of the parties who use the words;—for the conduct of the parties will best explain and fix the meaning of any thing which is equivocal in the language they use. Now, for that conduct, we are referred to the written transactions of two voluntary societies in London, corresponding with other societies in England, Scotland, and France, in which I include the British Convention, as held in Scotland. The Society for Constitutional Information was the elder society in point of establishment; major Cartwright stated, that its object was, to obtain a parliamentary reform, but not upon any fixed determinate plan. The London Corresponding society was instituted early in the year 1792, professedly for the purpose of obtaining a parliamentary reform, and that upon the duke of Richmond's plan. I think the evidence is so; and, though a great deal of violence very soon followed, which might have led one to question the truth of their original principles, yet I think it ought to be taken that that society was instituted upon those principles; unless one could have distinctly seen, in the evidence, to the very bottom of the foundation of that society, and seen that it was formed for the purpose of acting under a secret influence and direction to some other end, using a reform of parliament as colour only. I think there was some attempt to make this out, and fix the agency upon the prisoner at the bar: they went some little way towards proving it, for they gave evidence of Mr. Horne Tooke's hand-writing being found in the paper purporting to be the original constitution of the society; and they proved a considerable degree of intercourse between those who were leading members of the society and Mr. Horne Tooke, and that they looked up to him. But it does seem to me that they did not go far enough to maintain that proposition, for it is a strong proposition that a man should keep himself, behind the curtain, connected with such a society as this was, for the purpose of taking all their most active and violent measures under his direction; that they should set up a pretence of a reform of parliament, meaning all the while to execute a purpose of a very different kind, and do all this under one man's direction—this is a thing which is not to be believed, or to be

found by a jury, without very clear proof; it is not to be believed by you upon probabilities; in the common concerns of life men are obliged to act upon probabilities, but that is not the case with a jury; I might add that even in the common understanding between man and man, one ought not to believe such a thing, without its being more distinctly proved than it has been proved in this case.

Gentlemen, this Constitutional Society appears to me to be a mere club; with respect to the London Corresponding Society, certainly that is of a very different nature; it is indeed when you contemplate it so composed, as to be spreading itself every hour from division to division, and each division producing its sub-divisions, those sub-divisions becoming divisions, and so on *ad infinitum*, corresponding with, embracing and affiliating, as it is called, a great number of other societies in the country, many of them constituted upon the same plan; it is indeed a political monster, and most portentous, such a one, as in point of history, we know that at this moment the National Convention in France have been obliged to suppress; because, though they probably raised themselves to the government by it, they found the government could not subsist with it; it is of that nature which does certainly present a very alarming aspect to all those who have a regard to the peace, the happiness, and tranquillity of the country, for it is calculated to produce the most powerful combination that I think the world ever saw. If you could suppose bad designs to be at the bottom of it, which in this place when I am not speaking of the evidence of their designs, I shall not suppose, the wit or the malice of man could not devise an instrument of more power to execute them, and if you call to your recollection the advice that was given in a letter from the editor of the Patriot, as to the manner in which these societies might be extended, and converts made by able men from the different societies traversing the country, and infusing their opinions into the minds of every one in the country who could be prevailed upon by any art, by the most industrious management to listen to them, one can easily conceive what opinions might be infused, and what consequences might follow: probably many members of these societies may hear what I am now saying, and I would willingly hope that honest men would see the danger of countenancing a society of this extraordinary nature; and not abandoning their principles, that they will be content to communicate their principles where they wish to have them communicated through some channel less dangerous to the happiness of mankind.

Gentlemen, I have observed that the prosecutors thought they could trace the origin of this society to the prisoner at the bar, and I have observed what in my opinion was the true effect of the evidence with respect to that. The project of a national convention to be held here is suggested in a letter from the Stockport Society to the London Corresponding Society upon the 27th of September, 1792, and I do not find it distinctly marked in any paper of an earlier date. Mr. attorney general thought he saw it in the address of the sixth of August, 1792, and he stated to you his reasons; when that paper was read, I stated to you what occurred to me upon it, and I will not repeat it. There had been in London meetings of delegates for promoting a reform in the Commons House of Parliament about the years 1780 and 1781. Mr. Sheridan, who gave evidence upon this subject, called them a convention, and described them in terms that were apt and proper to give you an impression that they were a convention of the people, and he did, in guarded language, state that these delegates, and that convention, were to act upon the legislature by—not force, but, by impressing that awe and respect, which large bodies of men, promulgating their opinions upon public questions, might naturally be supposed to create upon the minds of those who composed the Houses of Parliament; whether the convention proposed by the Stockport Society, was of the nature of that convention mentioned by this gentleman, you will judge.

Gentlemen, there had been, we all know, a national convention in France, which had taken possession of the government, and had overturned the government; there had been public demonstration of the interest which many in this country took in the downfal of the French government. The principles upon which that change in the government of France was to be supported had been industriously circulated through these voluntary societies. Mr. Paine's first and second part of the Rights of Man, which had been approved of by a vote of the Constitutional Society, I think of the eighteenth of May, 1793, and his letter to Mr. Dundas, and Mr. Joel Barlow's works, were published about the same time: at the same period eager invectives against the executive government, as well as against the constitution of the House of Commons, were dispersed among the people. The nature of Mr. Paine's works, and of Mr. Barlow's works you are now perfectly apprized of, they were works some of them originally calculated for the meridian of France, and to support the revolution that had taken place there, others of them applying distinctly to this country and attacking the monarchy of the country and the hereditary dignities of the country; and, in short, proposing the models of the republics of America, and of France, as proper objects for our imitation, and as the proper measure of a revolution to take place here; there is no such thing as disguising that that is the true import of those works. They were published anxiously, and dispersed industriously by these societies, in cor dence with other societies, without an

that might in any manner tend to put the people upon their guard with respect to those parts which were unfit to be adopted; one of the Sheffield people said that he took upon himself to approve some parts, and to reject others; he conceived Paine himself did not understand some parts of his works. But is it fit, or ought it to be endured in a well-regulated government, that the books containing general principles subversive of every part of that government, should, without the least antidote to the poison, be dispersed all over the country to poison the minds of every man into whose hands they should fall, and that they should be put thus industriously into the hands of every man who would receive them? what must be the consequence, but that the minds of those persons must be intirely alienated from the constitution and government of this country, and that they must be prepared for a revolution, or for any crisis that the violence of violent men might bring forward, and that the country must necessarily be involved in civil commotions, and in all those horrors that belong to such a situation of things, such as have been but too much exemplified in a neighbouring nation?

Now then, in this state of things which had been prepared by these societies by their publications—by their unqualified approbation of these new opinions, and by the encouragement which they gave to the propagation of them. First of all an address to the Jacobins is transmitted through Mr. Horne Tooke, from the Constitutional Society, in which there is one very exceptionable passage—and at length, in October, 1792, an address to the National Convention is proposed by the London Corresponding Society to the Constitutional Society, after a private communication, both by Margarot, and by Hardy, to Mr. Horne Tooke, upon the question of the expediency of that measure; there is no direct evidence that Mr. Horne Tooke saw either of those persons, or answered their letters; their letters are found in his possession, but there was not any answer of his found, therefore how far Mr. Horne Tooke interfered in this measure you must infer from the circumstance of their letters being found in the possession of Mr. Horne Tooke. The two societies finally resolve to address this National Convention separately, a measure in itself of a very doubtful complexion. It has been argued to be quite lawful to present addresses to such a body in time of peace. I am not prepared to say that the interference of a large body of the subjects of this country in affairs which respect the government of another country, and which are interests confided by the constitution of this country to the king, is a thing so clearly innocent, or that I ought to pass it by unnoticed, from whence it might be concluded that I agree that it would be lawful, even in time of peace. I state it as a thing of a very doubtful complexion—but the prosecutor insists that whatever may be the complexion of that act, considered in that view only, in which respect, whether it be perfectly innocent, or whether it is any precise offence, is a consideration quite foreign to the present enquiry; they say, however that may be, that they object to these addresses, and use them as evidence against the prisoner, inasmuch as they have an aspect towards this country, and that the change of the government in that country is used, by the promoters of these addresses, to prepare the way for a change of the government at home.

Gentlemen, here again I do not wish to examine the language of these addresses too rigorously; but what are we to say to Mr. Frost's exposition and comment upon those addresses? he has thought fit publicly to declare, with those addresses in his hand, that revolutions will now be easy, and that it would not be extraordinary if, in a short time, addresses were to come from France to a national convention in England. Now is it possible to explain away those expressions? they might be said to be very indiscreet, and not warranted by the instructions, but that explanation is excluded in this case, because you find that Frost, and his associate, transmit their papers, including the very form in which they presented this address, together with the answer of the president of the National Convention, to the Society for Constitutional Information, and it appears in the evidence that they received an unqualified approbation from the Constitutional Society. The president's answer was in the same style, but I confess I lay no great stress upon that, it not being the act of the society, or of any one person authorized by the society.

Gentlemen, the measures which had been taken, in the earlier part of the year 1792; the countenance to Mr. Paine's works, the circulation of them; the countenance to Mr. Joel Barlow's works, and the circulation of them; the address of the sixth of August, and the correspondences loaded with invective, upon every order of the government; all these inflammatory things paved the way for a national convention in England, but they had no direct reference to it, and it seemed to me, therefore, that the national convention, named by the Stockport Society, might be understood to mean a convention for a parliamentary reform, for at that time there was nothing decisive to mark that it should be received in a different sense. Much occurs in the evidence to lead one to doubt, whether this was really meant, for it appears in the correspondence, that some of the societies entertained republican principles, some were for reforms upon the principles of the Rights of Man, which are hardly to be reconciled with the idea of that parliamentary reform which is to be pursued with real attachment to the constitution of the country, in King, Lords, and Commons; but, however, though there might be room to suspect, perhaps it would be too much for you to ven-

ture to pronounce upon this evidence, that the national convention mentioned by the Stockport Society was to be understood as a national convention, which was absolutely to usurp the government; but the question which is material, is, can the national convention, which was to be congratulated from France, be a convention for the reform of the Commons' House of Parliament? Is it possible, by any explanation, to understand that national convention in any other light, than a national convention of the same nature with the National Convention in France, which they were at that moment felicitating?

Gentlemen, if the previous measures had an effect to prepare the way for a national convention, on the plan of the National Convention in France, look at the succeeding ones, and those of the Constitutional Society, in particular. The introduction to the public notice of the argument of Saint André and Barrère, on the subject of the inviolability of the king, and of the nature of a national convention upon French principles, seems to have no possible relation to a national convention for the purpose of obtaining a parliamentary reform; and whether they can have any possible object but to beat down one of the guards of the safety of the king and to reconcile men's minds to the use of that instrument, that national convention which was to destroy him and the government, is for your consideration upon that piece of evidence.

It was observed by Mr. Tooke, that other persons who had published the Moniteurs, in which these speeches were, were not prosecuted; no; and when these papers passed in the general mass of newspaper intelligence, however it were to be wished, perhaps, that such doctrines might not find their way into this country, having no immediate relation to our government, and having relation to another government, there seems to be no way of fixing crime upon such a publication; but when the public attention is called to them by a society who had gone the length to present those addresses to the National Convention of France; and when he who presented those addresses had stated that revolutions would become easy, and that it was probable that the country might be felicitated upon a National Convention here by French addresses; the question is, whether the offering these papers to the public notice, in that manner, has not a different complexion, and whether it does not furnish an argument of an intent, that men's minds should be prepared for a National Convention, which should not respect the inviolability of the king's person.

Gentlemen, a British Convention in Scotland was set on foot early in the year 1793; I am not able to trace in the evidence any connexion with the Constitutional Society, till after that convention had met, and had been in some degree organized, and till (after *two adjournments*) it had met again. In November it was joined by a delegate from the Constitutional Society, together with delegates from the London Corresponding Society, and other societies in England; it appears, however, in the evidence, that these delegates from London, in fact, at that time, put that Scotch Convention in motion; that is the account given by Margarot. When they went down, the convention was adjourned, but they found no great difficulty in prevailing that the convention should be recalled, and accordingly, at his request, it was recalled.

Gentlemen, you heard a good deal of evidence respecting that convention; consider then, seriously, what that convention assumed to be; consider the solemnities, and the forms of it, the manner of its proceeding, the close imitation of the manner of the National Convention in France; and though they were originally dealing with small subjects, dealing with them with those forms which would enable them to deal with larger subjects; their treasurers employed themselves in separating bad shillings from the sum of four pounds five shillings and eight pence; with the countenance of the people, the same treasurers might have managed the whole revenue of Scotland. Skirving values himself upon having organized this meeting, and put them into a condition to act. To be sure, when you look at them, they are so completely organized, that it is extremely difficult to apprehend that it was possible that their object could be an application to the House of Commons, or to Parliament, upon the mere subject of parliamentary reform; independent of their particular conduct upon that subject, however, they held a particular conduct, for you find that they move for a committee to prepare a declaration of the unalienable, imprescriptible rights of man, which is the form in which the National Convention in France began all these operations; and when the scroll of a petition to the House of Commons was presented, they put a negative upon it, by the order of the day, upon which I before observed.

Now, whether all this form had really no bottom, and was only a piece of solemn mummery, meaning nothing at last, but that they had a mind to join in a petition to parliament; or whether this singular machine was so framed, and so conducted, as to enable them to feel the pulse of the people, and to take up larger pretensions or not, as that pulse should beat, is for your consideration. I said, upon a former occasion, that when we contemplate this convention held at Edinburgh, in a part of the country where there are a great number of people given to reading, and to thinking and who turn their minds very much to political subjects; and if we were to suppose, that a favourable impression was made of this convention, in consequence of these local circumstances temper and nature of the people, he

might have happened, that the countenance of the people of Scotland might have given an effect to these forms, and enabled the Scotch Convention to assume a tone of real authority, appears to me to be a momentous question, and was a question of a very dangerous uncertainty, at the time when that convention was sitting, and at the moment in which probably, most fortunately for the peace of the country, it was dispersed; for dispersed it was. In consequence of that, there were proceedings in the Court of Justiciary of Scotland, and some of the parties who were concerned in the measure of the Scotch Convention, were punished with great severity; the consequence of that was, that their cause was taken up here, and great indignation was expressed in these societies, on that occasion: there appear to have been great pains taken to irritate the public mind upon the subject of these proceedings; and it does appear to me to be a circumstance worthy of consideration, that be these grievances really at the bottom, more or less, of which it is not for me here to say one word, there seem to have been pains taken to aggravate things beyond the reach of all ordinary remedy, and particularly far beyond the reach of any remedy which a national convention, sitting for the reform of parliament, could possibly produce.

In that famous address of the twentieth of January, from the Globe tavern, you see they go to the length of stating, that there is no redress to be had from the laws, for they are the laws of their plunderers, enemies, and oppressors; that they cannot have grapes from thorns, nor figs from thistles, but that they must resort to some new and extraordinary remedy; what can that be? they follow it with a declaration, that they must have a full, free, and fair representation of the people; now can that be through the medium of a convention, or can it be in the Commons House of Parliament, for that would be according to the laws, which laws they renounce the protection of, and say they will have nothing more to do with them, but they will have resort to themselves.

In this state of things, a convention is proposed here, and resolved on by these two societies, in which this prisoner is certainly implicated, and measures are taken to carry that convention into effect. Now, gentlemen, if this convention was a convention on the plan of the convention in France to take the government of the country upon them, any one measure taken to bring forward that convention, would clearly be an overt-act of high treason in compassing the king's death. The measure that is charged is the meeting in a committee of correspondence and co-operation, and the consulting together to bring it about, is another overt-act that is charged of this species of high treason. To conspire to hold such convention for such a purpose, would be to conspire to depose the king; and every act done, tending to carry that conspiracy into execution, will be an overt-act of this treason, of compassing and imagining the death of the king.

But now, gentlemen, comes the great question for your consideration, was it a convention of this nature? Judging upon the whole context of these transactions, one can hardly believe, even though there is evidence of it, that a parliamentary reform in the House of Commons, was the object; one must suspect that more was intended; but the question is, what more was intended, and what was the precise object, for you must see that it is not enough that suspicions arise in your minds as to the objects which these persons had in their minds, that you incline to think that they must have meant more than they professed, respecting parliamentary reform; that their measures were not at all proportioned to this end, therefore, arguing with them upon the supposition that they acted consistently, that they must have meant that which is imputed to them; such grounds as these warrant suspicion, but, undoubtedly, do not constitute proof, and therefore you must distinctly see, that they had more in view, and that they had this particular object in view, to hold a convention for the purpose of usurping the powers of government.

On the part of the prosecution, they say that they ought to be taken upon this evidence, to have called this convention for the purpose of usurping the powers of the government, because they have proclaimed to the world that their object was to have such a convention, and to put this country upon a footing of a neighbouring country, in which there is such a convention which has usurped the powers of the government; and they say for the prosecution, that after that declaration coupled as it is with all that conduct tending to prepare the way for overthrowing monarchy and aristocracy, and all the orders of the state, they have a right to insist that it is not enough for those persons who are charged with high treason to insist, and to bring witnesses to say, that that was not their intention, but that their intention fell far short of it; for that they ought to be tried by their conduct, rather than by their professions, and that their conduct marks that this was the object: their conduct in respect of their general publications— their conduct in respect of the National Convention of France—their conduct in respect of the Scotch Convention, leaving out all the smaller intermediate parts of the evidence, from whence a great deal of matter might be picked out, some of it affording grounds of suspicion, some going a great way beyond suspicion, and fairly affording a ground to collect this intent.

Gentlemen, this is the strong part of the prosecutor's case, and here, I think, he must leave his case, for I do not see myself that he has carried it any farther than to show that the conduct of these societies has been the

conduct of determined republicans; that they have taken all occasions to countenance the idea of a revolution here, to be effected by a national convention, which was to be the form of government to be established in the place of the existing government of the country; and that they had irritated the public mind by every artifice that they could possibly use, in order to prepare them for such a crisis, and to make such a use of the national convention whenever that national convention should in fact be formed.

And, gentlemen, it is certainly true, that if you look at this case in the exterior of it, and upon the outline which I have stated, there is great ground to impute this to those societies; and it would be difficult for this prisoner, in particular, to take himself out of that implication. And it undoubtedly is true, that the conduct which these societies carefully observed was a conduct that must necessarily create great alarm in the country; that it must have called upon the government of the country to be very vigilant, and to take very active measures; that it does justify the putting the persons accused into that situation in which they now stand—calling upon them to explain to a Jury, even at the hazard of their lives and honour, and every thing that is dear to men, a conduct liable to so many just exceptions. But that this conduct may yet be explained, and that, when the question is with the Jury, whether that which all mankind might be justified in suspecting, does really turn out to be sufficiently founded in fact, and to be so distinctly proved as to warrant a Jury, who are bound to acquit if there remains any doubt upon the case, in finding a verdict of guilty, is quite another consideration.

Gentlemen, I consider every thing beyond the outline I have stated—which outline I consider as the prosecutor's evidence—I say, I consider every thing beyond that, as evidence on the part of the person accused. This inquiry has let us into a great deal of the interior of these societies, and it has produced a discovery I cannot say much to the honour of their leaders—that they have magnified their numbers and their strength, for a purpose which every man must see, very much beyond the truth. The Sheffield Society was represented as consisting of two thousand members a great while ago, and to be every hour increasing; there were ten thousand assembled upon the Castle Hill, which passed for the society. The evidence in the cause with respect to the Constitutional Society shows, that they vaunted to their correspondents of publishing a hundred thousand copies, when perhaps they did not publish five thousand.—There was an ostentatious display of force, of strength, and of consequence, which they really had not, with a view to mislead the public. But, however that may be, yet the *true state of these* societies, and of the *Constitutional Society in* particular, will certainly have a material effect upon the question of fact, whether, at the time this National Convention was proposed, they really had it in their minds to use it to usurp the government of the country; because it is a very essential thing to enquire, when a great end is proposed, what are the means by which it is to be effected. It appears upon the evidence, that the Constitutional Society had neither numbers, money, nor even zeal, according to the evidence. Sinclair complained very much that he was abandoned when he was in Scotland; very often their committees would not and did not meet. I am not speaking at present of Mr. Horne Tooke, the prisoner, personally, but that seemed to be the general conduct of the society; they seem to have had no resources such as men naturally furnish themselves with who engage in desperate enterprizes. From all the examination, we have not been able to trace any direct conspiracy, pointed to this object, by individuals who can be named; nay, the contrary is proved, as far as the evidence goes: they say that this man, and that man, and the other man, and every man that they had any knowledge of, were not involved in any such conspiracy—they had no idea of entering into any such conspiracy; and there certainly is a difficulty upon this evidence in that respect, admitting that the general outline I have stated would warrant very strict conclusions; yet upon whom to fix this conspiracy, seems to remain a thing of difficulty. There certainly is some evidence against many persons, and against the prisoner now at the bar; Mr. Solicitor General, in his opening, even treated him as the principal; and as if there were other persons who were put forward to go through the dangers of the business, but that he was the director of all.

There were certainly many things to be explained by the prisoner, which I shall have occasion to take notice of hereafter, but I am now observing how far the proof may be supposed to go. There is more consultation proved between the prisoner and Margarot and Hardy, than between him and any other persons; but with regard to Hardy, he is acquitted, which is of course an answer to all the evidence that implicates him. One may say, in general, that this evidence goes to involve all those who concurred in this resolution, and who had before assented to those previous transactions which manifest what the intent of this resolution was; it is no answer to this to object that this would involve great numbers; when there is a rebellion, every man in it is involved, if it consists of a hundred thousand; if there is a levying war, as in the case of Dammaree and Purchase, every man acting in it is undoubtedly criminal, and equally criminal with the leaders, but in all these cases the leaders are selected for example. It does not furnish any objection to the conspiracy, that it has unfortunately embraced in it a great number

of people; but it is certainly true, that the greater the extent of the charge, the more carefully you will weigh it, and the more willingly you will attend to every possible explanation that may lead you to doubt whether the charge is founded to the extent in which it is laid.

Gentlemen, Mr. Horne Tooke went into a very effective cross-examination: and he also examined witnesses on his behalf. I think he did well, in so doing; for I myself cannot but think that this was a charge, which it became Mr. Horne Tooke to treat most seriously, and to give the most satisfactory answer to it that evidence could furnish. He has examined a great number of witnesses; and I shall state the effect of their evidence more distinctly by compressing it, than by enlarging my observations upon particular witnesses. He has established that his principles, as far as can be collected from all these witnesses, who have spoken to them, and who had great opportunities of knowing them, were directly opposite to republican principles; that he was firmly attached to the monarchy of the country, and firmly attached to the constitution of it, in a King, Lords, and Commons—only quarrelling with the Commons House in its present state, and quarrelling with it from his attachment, in a great measure, to the king, and to the other House of Parliament. He was of opinion, that the true balance of the constitution consisted in the king having his prerogative upon high ground; the hereditary nobility, having their balance in the state; the Commons being a pure and perfect representation of the people: and he has given you demonstration, by public acts of his, in the year 1780, in the year 1782, in the year 1785, in the year 1788, nay, I think, also in the year 1790, of his having in public, when political questions were discussed, taken that part which is a clear manifestation of his principles. He has also gone into evidence which certainly deserves great consideration; with respect to the habits of his life, he is a scholar, a studious man, devoted to books, employing a great portion of his time with books, rather keeping company with books than with men, especially of late years; and men of such habits are generally more worthily employed than in mixing in factions which tend to convulse a state.

There is another circumstance certainly fit to be considered, in the case of Mr. Horne Tooke, and that is, it is not a secret, for it appears from the evidence of Adams, that declining health and infirmities coming upon him, has induced him very much to withdraw from society, and from much of that sort of public business that he used to be engaged in. The evidence is, that he cultivates his garden; he wishes never to be removed from it; to have an act of parliament to confine him there for his life; he sees hardly any body, but on a Sunday, and then it is a mixed company: undoubtedly, therefore, reasoning upon those principles which commonly direct the conduct of mankind, one should imagine that Mr. Horne Tooke, with his principles, his habits, and his infirmities, would, in truth, be the last man in England that could be justly suspected of being engaged in a conspiracy of this kind.

Gentlemen, the reply, I am sorry to say, has made some impression upon this defence, which, on the first view of it, seems to be the strongest kind of defence that could be stated in a case of this nature, where so much was to depend upon the general sentiments, opinions, and habits of life, of the person who is accused; but, in the reply, it is observed, that with these principles, with these habits, and even under the pressure of these infirmities, Mr. Horne Tooke, the prisoner at the bar, is found actually dealing in these subjects, by his intercourse with Hardy, by his interference with the papers of the society, but, above all, by those more public demonstrations to be collected from the address to the Jacobins, from the address to the national convention, and from the unfortunate publication in which, in his own hand, he says, "that liberty is making Herculean efforts, and those vipers, monarchy and aristocracy, are panting and writhing under its grasp," which are a direct violation of all his professed principles: I say he is found dealing in these subjects, in a way which his principles ought to have preserved him from; and therefore it is insisted upon, on the part of the attorney-general, that had his defence been consistent, and had it applied to carry him throughout all the facts, it ought to have had its full weight, but that inasmuch as with these principles of loyalty, with these habits of study, and in the situation he is in of health, he has done all these things, what can you conclude from those principles, and from those habits? You cannot say that he has not been a party in these measures, because it is too evident that, as to many of them, he has been a party in them, and an active party in them, and they are very difficult to be explained. Now, gentlemen, we come to the conclusion.

This charge against this gentleman rests upon the impressions which his conduct in these societies, from the beginning, or from perhaps the middle of the year 1791, down to the time when these resolutions passed for this National Convention, shall have made on your minds, upon the evidence they afford of the real intent of his mind in agreeing to that convention, and as to the object of that convention. If you should be of opinion that, notwithstanding the first impression which these circumstances have made upon your minds, and must, I think, certainly make upon every man's mind who has heard the case, considering the nature of the enterprize, and considering the actual situation of the means by which it was to be effected, taken together with the evidence of his principles,

his habits of life, and his situation in point of health, that you are bound to refer all these transactions to other objects, and you should conclude to form your judgment as to his intent in these measures, in which he has been engaged, rather from these domestic parts of his character, than from those in which he has acted with others in public; then you may say, that however suspicious this case is, this conspiracy is not made out against him, and that this prisoner is not guilty; if you should see the case clearly in the other light, then you will do that which the justice of your country calls upon you to do.

I wish heartily that Mr. Tooke had put this case really beyond all suspicion, because I see, with great regret, a man of his cultivated understanding, of his habits, of his capacity to be useful to mankind; a man supported by the evidence of that venerable prelate, the bishop of Gloucester, who, I am sure, would flatter no man; I say, I am heartily sorry to see him in such a situation, and I should have been heartily rejoiced if he could have put this case beyond all suspicion, but I cannot say that he has done so. There certainly is a great deal to be explained, which I am not able to explain, and I am at this moment totally unable to develope the character and conduct of this gentleman; but that goes but a little way upon the question, whether he is guilty or innocent of this indictment; that you will judge of by the result of the evidence, and the clear impression that that result shall make upon your minds. I repeat that you have a very serious duty imposed upon you; but, after the pains you have taken to make yourselves masters of the case, it is a duty you will discharge with satisfaction to your own consciences, and consequently, with satisfaction to your country.

The Jury withdrew at about ten minutes before eight o'clock in the evening, and returned into court in about eight minutes.

Clerk of the Arraigns.—John Horne Tooke, hold up your hand—Gentlemen of the Jury, look upon the prisoner—How say you, is John Horne Tooke guilty of the high treason whereof he stands indicted, or not guilty?

Foreman.—Not guilty.

Clerk of the Arraigns.—Did he fly for it?

Foreman.—Not that we know of.

Mr. *Tooke.*—My mind, my lord, is much better formed to feel and to acknowledge kindness than to solicit it. I desire to return my most sincere thanks to your lordship, and to the bench, for the conduct which you have held towards me, during the whole of this tedious trial.

Gentlemen of the jury, you have afforded a just protection to my life: I thank you for it: and give me leave to tell you two things, which will increase your satisfaction as long as you live. We shall both have done good to our country. When I have told you two facts, one of which it was impossible I should tell you before, and the other it was unfit that I should tell you before. I am sure we shall never see such a trial as this again. My caution, and my virtue, for at this moment I will place it to myself, are the cause of those suspicions which dwelt upon his lordship's mind; his sagacity and integrity assisted him to clear many things up to you; but the whole suspicion has arisen from this—I was anxious for the proper conduct of other men; and if I could have foreseen, what I never could foresee, till the attorney-general made his reply———

[Here Mr. Tooke was interrupted, by the breaking down of part of the Student's Gallery; when the disorder had subsided, he proceeded.]

Gentlemen, this will help to direct your conduct through life; and it will help other jurymen likewise, to restrict this kind of guilt, by inference. His lordship did see some part of it, and, with great candour, he mentioned it to you. The fact stands thus—being rarely present at these meetings, when my name appears in the books, I was anxious for the safety of a very honest, but not a very able man. The secretary repeatedly brought to me papers, which the society had received, which were ordered for publication, and were afterwards put in the newspapers; and when I saw a word which was capable of causing a prosecution for a libel, I took the paper, and, with my hand, struck out the exceptionable words, and inserted others which would avoid the danger of a prosecution. Upon this is built all that apprehension and suspicion of the direction, and conduct, and originating of societies, with none of whom, nor with any of the individuals of whom, did I ever correspond, or communicate, at all. I know none of these country societies, nor an individual belonging to them. I did not know these London societies, except as candidate for the city of Westminster. Every man who came to me, of every opinion whatever, if he asked my opinion, I corrected his works. A gentleman in court wrote a book against me; I corrected the book myself; I do not mention it to justify myself, because a jury of my country have justified me quickly, clearly, and nobly; but I mention it for the sake of that law, upon which the blood, and the family, and the character of men, depend. There never stood a man before your lordship more free from rational foundation of suspicion, upon this ground, than I stand before you. If you examine all the papers—if the attorney general will look at them again with this key, he will find it so. If the solicitor general had stated in his opening, what the attorney general did, when your lordship had properly closed my mouth, I should have explained it; but I obeyed your direction; and with confidence I trusted my life with that jury. If I had been permitted, I could have

explained that which was thought the strongest evidence against me. There was one paper, where the word "government" was struck out, and "country" put in. "Radical reform of the government" might mean to pull up government by the roots; "radical reform of the country" could mean no such thing;—no man will be charged with pulling the country up by the roots. The The paper was forgotten; I recollected it, when it was read. I had not foreseen the nature of the charges, and inferences, to be used against me, to make me a traitor; it is impossible I could foresee them. To prevent the prosecution of other persons for libel, I have suffered a prosecution for high treason. I return your lordship thanks—I return my counsel thanks, my noble friend Mr. Erskine, who has been so nobly supported by Mr. Gibbs;—and you, gentlemen of the jury, I return you my thanks. I am glad I have been prosecuted; and I hope this will make the attorney general more cautious in future; he said he would have no treason by construction; and there is no suspicion against me but by construction and inference.

Mr. Tooke was immediately discharged.

Note.—The jury were not permitted to separate, from the time of being sworn on the trial, till after they had delivered their verdict. They slept at the London Coffee House every night, attended by the proper officers of the court, sworn in the usual form.

On Monday, December 1st, at a quarter after nine o'clock, the Court, under the Special Commission, met again at the New Sessions House in the Old Bailey, when John Augustus Bonney, Jeremiah Joyce, Stewart Kyd, and Thomas Holcroft were brought to the bar, and the following jury sworn in:

Charles Digby	Robert Lewis
Robert Batson	Mark Hudson
Alexander Trotter	Henry Bullock
Robert Mellish	John Powsey
William Harwood	Hugh Reynolds
James Haygartt	Thos. Harrison, esqrs.

The Prisoners having been arraigned,

Mr. *Attorney General*.—When I had, on the last trials, the honour to stand here in the discharge of my official duty, I addressed the jury, in order to state the grounds of the prosecution, and the juries on those trials have found a verdict of not-guilty. It then became my duty to consider what was proper to be done in respect to the public and the prisoners at the bar. The result is, that as the evidence adduced on those trials and that which applied to the prisoners, were the same; and as, after the best consideration, those persons have been acquitted, I would submit to the Jury and the Court, whether the prisoners should not be acquitted, and for that purpose will not trouble you by going into evidence.

Lord Chief Justice *Eyre*.—Gentlemen, as there is no evidence, you must of course find the prisoners not-guilty.

The jury then pronounced a verdict of Not-Guilty, and by direction of the Court the prisoners were discharged. Messrs. Bonney, Joyce, and Kyd bowed to the Court and retired.

Mr. *Holcroft*.*—My lord, and gentlemen of the jury———

Lord Chief Justice *Eyre*.—Mr. Holcroft, you have been acquitted in a way that hardly affords much room for your observation: I think the best way would be for you to follow the example of the rest of the gentlemen, who have retired.

Mr. *Holcroft*.—My lord, every man must act according to the best of his own judgment. My judgment tells me that it is my duty, on the present occasion, to address a few words to this Court and the gentlemen of the jury.

Lord Chief Justice *Eyre*.—You will understand one thing; and that is, that having been acquitted, you have *no right* to address one word either to the Court or the jury. At the same time, I do not wish to hold you strictly to that right; but conduct yourself properly, and I will not stop you.

Mr. *Holcroft*.—My lord, I have well considered what I have to say. Whether my judgment and the judgment of your lordship should happen to differ, it is impossible for me to foreknow; but what I have to say flows from the dictates, I believe, of an honest and well-intentioned mind. I am liable, like all other men, to mistake. Let my mistakes be heard and examined.

Lord Chief Justice *Eyre*.—Those dictates must be properly timed. At present you are not called upon to say any thing; and you have no right to detain the Court by a long speech.

Mr. *Holcroft*.—I will not detain the Court more than half an hour.

Lord Chief Justice *Eyre*.—Half an hour!—Mr. Holcroft you must withdraw.

Mr. *Holcroft*.—After having suffered the injustice that I think I have suffered, and which injustice it is my desire to state here publicly to this Court———

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* The account given in the text of what passed on Mr. Holcroft's endeavouring to address the jury, was taken in short-hand by Blanchard, and published by Mr. Holcroft in a pamphlet intituled, "A Narrative of Facts relating to a Prosecution for High Treason, including the Address to the Jury, which the Court refused to hear; with Letters to the Attorney General, Lord Chief Justice Eyre, Mr. Serjeant Adair, the Honourable Thomas Erskine, and Vickery Gibbs, Esq, and the Defence the Author had prepared if he had been brought to Trial. By Thomas Holcroft."

Lord Chief Justice *Eyre.*—Mr. Holcroft, you have been dealt with most honourably, on the part of the attorney-general. You stood indicted by your country; and no man, who happens to stand in that situation, ought to complain of injustice; because he accuses his country of injustice, when he makes that complaint. You have had no extraordinary hardships. You brought yourself into custody by your own voluntary surrender. You have had no extraordinary hardship since that time; and you have in the close of it been treated most honourably, and with all possible attention, by the attorney general, who has consented to your being acquitted, instead of standing at the bar upon evidence, which must have been left to the jury as evidence proper for their consideration, upon the question whether you were to be found guilty or not guilty. You have no right to complain of injustice; and therefore you ought not to be heard upon a complaint of injustice.

Mr. *Holcroft.*—My lord, I desire but one word.

Mr. Baron *Hotham.*—Mr. Kirby, why do not you do your duty?

Mr. *Holcroft.*—My lord, permit me to say one word.

Lord Chief Justice *Eyre.*—If you will be reasonable and confine yourself within compass, I will not stop you; but a speech of half an hour is not a thing to be endured.

Mr. *Holcroft.*—I find the judgment of the Court wishes me to withdraw. I always desire to comport myself so as to gain best the good opinion of mankind by the exertion of what I think to be my duty. If my judgment happens to be mistaken, if I am wrong in this instance, I am certainly sorry I have not more understanding. I do not wish either to appear a violent man or an obstinate man. I had something to say to this Court which I think of the utmost importance to my country and makind in general, and therefore I wished for a moment to be heard; but as it does appear to be the opinion of this Court and of every body here, I must accede to that public opinion in this place, and must take some other means of publishing my sentiments upon the prosecution that has been instituted against me.

Lord Chief Justice *Eyre.*—You had better take care of that, or you may get into another scrape as soon as you are relieved from this.

Mr. *Holcroft.*—My lord, I am very willing to suffer for what I conceive to be right.*

On December 15th, the Court again met at the New Sessions House, Old Bailey, when the following gentlemen were sworn as a jury on the trials of John Richter and John Baxter.

Robert Batson	John Powsey
William Harwood	Hugh Ronalds
James Haygartt	Henry Capel
Robert Lewis	John Leader
Thomas Wood	Jeremiah Blakewood
Henry Bullock	Rb. Kilby Cox—esqrs.

The Prisoners were arraigned.

Mr. *Attorney General.*—Gentlemen of the Jury, in the circumstances in which I have now the honour of addressing you, I think myself justified in forbearing, at present, to bring forward any evidence against the prisoners at the bar.

Lord Chief Baron *Macdonald.*—Gentlemen, there being no evidence brought against the prisoners, you will of course find them not-guilty.

A verdict of NOT-GUILTY was then given and recorded.

Lord Chief Baron *Macdonald.*—These gentlemen, having been found not guilty, are now discharged from the bar.

John Baxter.—Gentlemen of the Jury; I beg leave to return you my thanks——He was proceeding, but was informed by the lord chief baron that being now discharged from the bar, he had no right to say any thing to the Court.

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* On this same day, after the above proceedings had taken place, John Thelwall was brought to the bar, and after a trial which lasted four days, was acquitted. I had hoped to have obtained a correct report of Thelwall's trial for insertion in the present volume; but my endeavours have hitherto been unsuccessful.

606. The Trial of JAMES BIRD, ROGER HAMILL, and CASIMIR DELAHOYDE, Merchants; PATRICK KENNY, BARTHOLOMEW WALSH, MATTHEW READ, and PATRICK TIERNAN, Yeomen; for conspiring to incite an Insurrection in the Kingdom of Ireland; before the Honourable Mr. Justice Downes, at Drogheda, April 23rd: 34 GEORGE III. A. D. 1794.*

Criminal Court of Drogheda.—Lent Assizes.

On Monday the 21st of April, 1794, Roger Hamill, James Bird, Casimir Delahoyde, Patrick Kenny, Matthew Read, Bartholomew Walsh, and Patrick Tiernan were put to the bar and arraigned, before the honourable Mr. Justice Downes, one of the judges of his Majesty's court of King's Bench, upon the following

INDICTMENT.†

County of the town of Drogheda, to wit. THE jurors for our lord the king upon their oath say and present, that Patrick Kenny of Drogheda yeoman, Matthew Read of the same yeoman, Bartholomew Walsh of the same yeoman, Patrick Tiernan of Turfeckan in the county of Louth yeoman, Roger Hamill, James Bird and Casimir Delahoyde, all of Drogheda in the county of the town of Drogheda, merchants, being wicked, seditious, and evil-minded persons, and of wicked and turbulent dispositions, and contriving, designing and intending unlawfully, unjustly, maliciously, turbulently and seditiously, the peace of our said lord the king and the common tranquillity of this his realm of Ireland to disquiet, molest, and disturb, and as far as in them lay, to stir up, cause, incite and procure sedition, insurrection and rebellion within this realm, and to bring the government of our said lord the king within this realm into manifest danger, on the 14th day of December, in the thirty-third year of the reign of our sovereign lord George the third, king of Great Britain and so forth, at Drogheda in the county of the town of Drogheda, and on divers other days and times, as well before as after, with force and arms their aforesaid wicked, malignant and seditious purposes and designs to fulfil and effect, did then and there together with divers other wicked, seditious and ill-minded persons to the jurors of our lord the king at present unknown, meet, assemble, agree, conspire, confederate and treat of and about the accomplishing and effecting of their aforesaid malignant and seditious purposes and designs: and of, for and about causing, procuring, inciting, and effecting an insurrection and rebellion within the realm of Ireland; and for, about, and concerning the raising, providing and procuring of arms and armed men to be ready and prepared in different places within this realm, their aforesaid wicked, malignant, seditious and rebellious designs and purposes to effect, accomplish and fulfil; in contempt of the laws of this realm, to the evil example of all others in the like case offending, and contrary to the peace of our said lord the king, his crown and dignity.

And the jurors of our lord the king, do further present and say, that the said Patrick Kenny, Matthew Read, Bartholomew Walsh, and Patrick Tiernan, James Bird, Roger Hamill, and Casimir Delahoyde, being such wicked, ill-minded and seditious persons as aforesaid, and wickedly, factiously and seditiously, contriving and intending the peace of our said lord the king, and the common tranquillity of this his realm of Ireland to molest, disquiet and disturb, and to cause and incite a wicked rebellion within this realm, and the laws and government of our said lord the king to bring into danger, on the said 14th day of December, in the said thirty-third year of the reign of our said lord the king, and at divers other days and times, as well before as after, at Drogheda aforesaid, in the county of the said town of Drogheda aforesaid, with force and arms, did then and there wickedly, factiously, seditiously and contemptuously

* From the Original Report, printed by H. Fitzpatrick, Upper Ormond Quay, Dublin, 1794.

† The undernamed persons composed the Grand Jury who found the bill.

Edward Harman, esq.	O'Brien Bellingham, esq.
James Schoales, esq.	John Fairtlough, esq.
Oliver Fairtlough Williams, esq.	Burton Tandy, esq.
Wm. Gibbons, esq.	Robert Pollock, esq.
Henry Smith, esq.	Anthony Walsh, esq.
Maurice Barlow, esq.	Geo. M'Entagart, esq.
John Jones, esq.	Wm. Atkinson, esq.
Wallop Brabazon, of Rath, esq.	Thos. Wynne, gent.
	Lewis Austin, merch.
John Shekleton, esq.	John Linton, merch.
Wm. Chapman, esq.	Wilcocks Riddock, gt.
H. Coddington, esq.	Miles Lucas, gent.

meet, associate, consult, conspire, confederate and agree together, and to and with divers other wicked and ill-disposed persons to the jurors aforesaid at present unknown, of, for, concerning and about the raising, causing, and levying of INSURRECTION, REBELLION, and WAR! against our said lord the king, within this his realm of Ireland; and of, for, concerning and about the procuring and providing of arms and armed men, to be prepared within this realm, their aforesaid wicked, malignant and diabolical designs and purposes aforesaid to accomplish and effect; in contempt of the laws of this realm, and to the evil example of all others in the like case offending, and contrary to the peace of our said lord the king, his crown and dignity.

To this indictment the several culprits traversed: and the Court was pleased to order their trial for the following day.

On Wednesday the 23d of April, 1794, the several traversers before-mentioned were again put to the bar in order of trial; and having declared their consent to abide the issue,—

The following persons were sworn upon the jury and impanelled:

John Lee	Hampden Nicholson
Blaney Balfour	Anthony Sillery
Rich. Cooper	John Leland
Wm. Smith	Thomas Collins
Philip Brabazon	Beaver Blacker
Wm. Jones	Ninian Rogers, Esqrs.

Counsel for the Prosecution.	*Counsel for the Traversers.*
Mr. Attor. General*	Mr. Curran†
Mr. M'Cartney	Recorder of Dublin
Mr. Saurin	Mr. Ponsonby‡
Mr. Ball	Mr. Blackburne
Mr. Ruxton	Mr. Dobbs
Agent.—Mr. Kemmis	Mr. Hawthorne
Crown Solicitor.	*Agent.*—Mr. Carrol

First witness for the Prosecution, *Thomas Murphy.*—Examined by the *Attorney General.*

The witness being brought upon the table, addressed the court as follows:

My lord, I beg your lordship's leave to say one word.—I understand, when I was examined at Dundalk, the jury did not give any charge upon what I swore there; and so may be it will be of no use to examine me here?

Mr. *Attorney General.*—Oh, Mr. Murphy, that is not to the purpose—you must be sworn.

Court.—The man must be sworn; but the jury will attend to this circumstance.

Being sworn, he underwent the following examination:—

Do you know the traversers?—I do.

Look about,—do you see any of them in court?—I do.

Do you see Roger Hamill in court?—I do.

[The witness being desired to point out Mr. Hamill, and having laid his hand on Mr. Bird, excited a loud laugh in the Court; but quickly recovering himself, said his mistake arose from a person standing before Mr. Hamill, whom he then identified; and also the rest of the traversers, except Bartholomew Walsh.]

Do you remember the months of November and December 1792?—I do.

Did you see any of the traversers in those months, and where?—I did, at the house of one Sheridan in Laurence-street.

What brought you there?—I went to look for Patrick Kenny, who was a captain of the Defenders.

How do you know, that he was a captain of Defenders?—I understood, he had the articles; and it was he swore me a defender.

In what part of the house did you see the traversers?—In a back room up stairs.

Was there any one in the room, when you went into it?—There was not. The traversers came in after. Mr. Bird and Mr. Hamill came in arm and arm, and Mr. Delahoyde some time after.

Can you recollect what furniture was in the room—was there a table?—There was.

Did the traversers sit at the table?—No; at a distance from it.

Court.—Were the traversers at the bar, there?—They were, my lord.

Did you sit down?—No.

Did all the traversers whom you have mentioned sit down?—They did, sir.

In what capacity?—They were there in committee, to direct the persons sworn in as captains; and to disarm the Protestants.

Were there any disturbances in the country at that time?—It is very well known the country was at that time in a bad state of disturbance, and the people were coming to misfortune.

Were the disturbances, disturbances of Defenders?—They were.

You spoke of a committee—What is meant by a committee?—I was sworn by them, and understood, that the persons under the captains were to execute their orders.

Court.—You say, they gave orders?—They did my lord, to disarm the gentlemen of the country.

Court.—Can you mention, who were the committee?—I can, my lord.

You say the gentlemen considered in the committee as captains gave directions?—None but one.

Who?—Mr. John Berrill.

In what part of the room?—Sitting with the rest round a table?

What directions did he give?—The directions Mr. Berrill gave, *was*, that Mr. Trotter

* The right hon. Arthur Wolfe, afterwards Lord Chief Justice of the Court of King's Bench, and viscount Kilwarden.

† Afterwards Master of the Rolls.

‡ *Afterwards Lord* Chancellor.

of Duleek had a number of arms; and that we should go and take them.

Court.—Who were the captains, and what directions did they get?—Directions were given to Patrick Tiernan, Patrick Kenny, William Conolly, and Richard Kelly.

What directions did Mr. Berrill give?—The first declarations *was*, that Mr. Trotter had a number of arms, and ought to be disarmed; and that although Mr. Dillon of Manninstown was a Roman Catholic, he would turn every Defender in the country upon a spit.

A Juror.—Were there any directions to attack Mr. Trotter?—Yes; but at no particular time.

Can you mention any farther directions?—He gave directions to Patrick Tiernan, to attack Mr. M'Clintock of Newtown, because no one knew the way so well, as he drew coals there in the Summer.

Did Berrill give any other directions?—Not to me.

Were there any other directions given?—There *was* directions:—to disarm the Protestants and soldiers in St. Peter's church, and the military in the barracks; but they withdrew it, as it was better to leave that to the last They meant to send a body of Defenders to disarm them; and said, they went through the chapels to quiet the Defenders, but that was only to blindfold the Protestants.

Court.—You say, they meant to attack the soldiers?—They did; but said, they would leave it for the last.

A Juror.—Repeat that again.—*Witness.*—I say, they gave orders to attack the soldiers and Protestants in Peter's church; but, they said, they would leave it for the last.

Why did they agree upon attacking the soldiers in Peter's church?—Because they would not have arms or ammunition, and might be better attacked.

Was that the plan, to attack them when at church, without their arms?—It was.

Did the soldiers usually go to church without their arms?—They did.

You say, they were talking at the committee?—They were, all.

A Juror.—You mentioned Delahoyde; was he there?—No; he went away.

Court.—At what time did Mr. Delahoyde go?—When he came into the room he pulled out a paper from his pocket, read it twice, gave it in to them at the table, and went away.

Did he sit down?—No.

Court.—Was that at the commencement of the meeting before the committee sat?—He did not stay five minutes in the room.

Do you know any thing of arms being distributed by these gentlemen?—I know a vessel came in at Annagassin with three chests of arms;—they were landed on that strand, but I cannot swear positively to the name of the place.

Were any of the prisoners mentioned present, when the arms were landed?—There was—Matthew Read, Patrick Tiernan, and Richard Kelly met them coming home.

Was Read present?—He was.

Do you know where the arms came from?—I don't know, whether it was from France or Birmingham.

Court.—You say Read was present—are you sure that the other two traversers you mentioned were there?—I say, I met them as coming home.

Was it Kenny, or Kelly?—Kelly.

What was done with the arms?—One chest was carried away in my presence, and brought to Patrick Tiernan's house. They told me, they were to be distributed; and said,—if you desire a gun you shall have it; but I made answer that I had a better than any of them (which I had, at the time).

Was Mr. Tiernan present when the arms were carried to his house?—He was.

You swear that?—I do.

At the meeting at Sheridan's was there any money given to the persons present?—There was.—Kenny, Kelly, Tiernan and Connolly gave in four purses, which they said, was all they had collected since the last time.

What last time?—I suppose, since they had a meeting.

Court.—Are you sure they gave money?—They did to Matthew Read. They said they got shillings a-piece from the people all round.

Court.—What did you say about the money?—Matthew Read asked them whether they got any subscriptions. They answered and said they got shillings a-piece from all that could afford it; and that others got more.

Court.—Is Matthew Read one of the traversers?—He is, my lord.

Did they say, they got a shilling a-piece from every person all round?—They charged less to such as could not afford it.

Was there money given to any person besides the purses given in?—No money at that time.

Was there money given at any other time, and by whom?—By Mr. Bird. I got five shillings from him at one time.

How many days after the meeting was that?—Five or six days.

Was that before or after Mr. M'Clintock's house was attacked?—Before it.

Where did he give you the money?—He gave it in West-street, opposite his own gate.

For what purpose?—I only asked him for some money, and he gave it.

At that meeting at Sheridan's house, were there any hopes given of receiving assistance from any foreign country?—I heard the traversers say, that within the space of a week they expected assistance from France; and they said, they would get the conditions of Limerick; and that the Protestants had the power of the country long enough, and that they would have it as long more.

Thomas Murphy cross-examined by Mr. *Curran*, as counsel for the Traversers Hamill, Bird, and Delahoyde.

What religion are you of Mr. Murphy?

The witness did not answer the question, but addressing himself to the Court, said —"My lord, I beg your lordship's protection from the cross-examination,—I know I am not able to stand it.—But if the gentlemen examine me one at a time in rotation, I will answer them."

Court.—You shall be so examined.

Do you profess any religion?—I do, the Roman Catholic.

You said something of having been examined at Dundalk; you did not explain it sufficiently?—I did—to judge and jury, and to you, if you could hear.

Did you say, that you were ever examined at Dundalk as a witness in a prosecution?—I was, against persons concerned in the attack of Mr. M'Clintock's house.

Did the jury give any credit to your evidence?—I don't know.

Were the men acquitted?—They were, sir.

Do you mean because the jury at Dundalk did not give credit to your evidence?—I don't know why.

Do you believe the jury at Dundalk considered you perjured?—I am sure you nor no man in the court can make out that against me, I never left it in any one's power.

Did not you swear against the persons directly, and were they not acquitted?—I am sure they would not be acquitted only they got persons to swear.

Did the jury acquit?—I told you so. I was not present.

Pray Mr. Murphy have you ever been in a court of justice before—is this your first circuit?—What! Do you think I get my bread by it as you do?

Mr. *Curran.*—Oh, not at all Mr. Murphy; I should be sorry to cast such an imputation on so *honourable* and *worthy* a gentleman. But you say you were at Dundalk?—I do, and I am here now.

How did you travel to Dundalk?—I went down in a chaise first; and coming back after with a party of the 8th regiment, I got drunk in Dunleer, and they *leathered* me.

How did you go down the second time; were you examined as a witness? Were not the men acquitted the first time, and you brought again to swear against other persons?—I was.

Whom were you examined against the second time?—Against sir Patrick Bellew's son.

Did you swear positively against him?—No; I did not know the gentleman.

Were you brought down on any other occasion?—I was in prison for robbing a priest, and discharged out of court by proclamation.

Are you at a loss to know were you ever *tried a second time*?—I was, for robbing one *John Markey.*

Were you discharged by proclamation?—I was.

Were you ever charged about a pig?—Never. That was only a made-up story.

Mr. *Curran.*—Indeed, I believe it was. I am sure such a *worthy* character as you, would have nothing to do with it. What religion are the prisoners at the bar?—I saw them at mass several times.

Do you believe they are Roman Catholics?—I do.

Mr. Bird is a merchant, is not he?—I believe so.

Mr. Read, what is he?—I can't tell whether he is a merchant or not; but he is a shopkeeper.

I ask you are not the three gentlemen at the bar, Mr. Bird, Mr. Hamill and Mr. Delahoyde reputed rich?—They are. If I had money and *larning* I would be accounted a gentleman too.

Are they rich?—I can't tell. I believe so.

Are they persons of good character and property?—They are.

Are they gentlemen?—Your bread depends on rogues and gentlemen. I am sure you would have no business here only for me; and you will get more by it than I will.

You say you went to the committee; were you a member?—No; I was sworn in as a common man.

Were you a member?—Your English is too much for me. If you explain yourself I'll answer you.

Were you a committee-man?—I was not.

When you went to Sheridan's house, what were they doing?—I found them debating about disarming the Protestants.

Whom did you find there?—I found James Bird, Roger Hamill, Matthew Read and John Berrill.

When the gentlemen came there, who spoke?—Mr. Berrill did.

What did he say?—He said Mr. Dillon of Mannimstown, although a Roman Catholic, expected to be a justice of peace; and that he would put a Defender on the spit, and eat him.

Mr. *Curran.*—Mr. Murphy, did not you say something about expenses?

Murphy.—Did a word never slip on you, that you'd wish to recall?

Did you swear, that Mr. Berrill said, although Mr. Dillon was a Roman Catholic and a justice of peace, he would roast and eat a Defender?—I say, he said, that although Mr. Dillon expected to be a justice of peace, and was a Roman Catholic, he would do what I said.

Was no person present at the landing of the arms at Annagassin but Tiernan?—I said, Mr. Matthew Read.

Were either of the traversers, Mr. Bird, Mr. Hamill, or Mr. Delahoyde there?—No.

Did you ever swear they were the I never did, to the best of my opini

If you ever swore they were, co get?—I say, I never swore they w

If you had sworn so by accident, you would be sure to be right, for then you would have sworn both ways.—I did not swear both ways.

So the plan was, to disarm all the Protestants?

Murphy.—It was what I heard; and I believe it is better known to you than to me. Ask me a proper question, or I will leave you.

Mr. *Curran.*—Sit down.

Have you been at Trim?—I was.

Were you there at the trial of Mr. Fay?—No; I am sure I was not there.

You have heard of Mr. Fay being tried. Pray had you any acquaintance with Mr. Lynch?—I believe you got more by him than I did.

Don't you think him an entertaining pleasant man?—He gave you that character.

Don't you give me the same?—No; I do not.

Were you a Defender?—I was.

Did you get any orders about the Protestants? Was it to make them go to mass?—It was to prevent them going either one way or the other.

Was it to kill them? Or to go and ask them if they were Protestants, and knock them on the head?—No.

What did you expect then?—I expected that I would get what livings you, and the like of you have, for myself.

What! Did you mean to turn counsellor?—If I got *larnin*, I don't doubt but I'd be as good a counsellor.

Was it your scheme to knock the Protestants on the head, and that you and your companions would take their places?—Yes.

I suppose you intended to get some pleasant place; a bishoprick for instance?—You give the Court occasion to laugh.

How soon did you expect the French? Did they come?—No; they did not come: if they came, I believe, you would be more afraid than I; and you would have a better reason.

Are you sure you swore at Dundalk about yourself, concerning the attack on Mr. M'Clintock's house? Say, what did you do there?—I said, I fired shots in at the house.

Was that your first time of being examined at Dundalk?—It was.

I think you swore you were brought there a second and third time?—I was not a third time.

Was not a gentleman sent to gaol, and arraigned on your information?—There might be ten or fifty to do it, as well.

Can you form a belief?—I cannot. The gentlemen, justices, and magistrates never gave me advice; but left me to do as I pleased.

Did any persons speak to you about the prosecutions?—There did. The Speaker and alderman Harman.

Was that any considerable time after you were examined at Dundalk?—It was not.

Were you promised any thing for what you were to do, or in consequence of acting your part well? I want to know when?—I was not promised any thing when last brought down.

Were you not promised something for what you were to do at Dundalk?—I was not promised one halfpenny-worth of bread.

Were you not in gaol, and sent for, to make information?—I was.

Whom did you charge in the first information?—I charged Kenny, and Tighe, and King.

Did you make the information before a magistrate?—I did, before two.

Whom did you charge in the second information?—I charged the traversers here.

Can you recollect the day?—No; I saw them go by the gaol under a guard of horse.

Was Mr. Delahoyde taken to gaol under a guard of light horse?—You understand gaols, as being an old practitioner.

Did you hear that he was taken out of his bed at 11 o'clock at night, and taken to Dublin?—Mr. Delahoyde was not.

Did you hear the others were taken to Newgate?—I heard so.

Did you hear they remained there a fortnight?—I believe they did.

Will you point out the day?—I cannot.

Can you tell the day of the meeting at Sheridan's?—I cannot. It was either in November or December. I cannot say exactly.

Was Sheridan there?—No; he was not.

Thomas Murphy cross-examined by Mr. *Blackburne*, as counsel for Matthew Read.

I believe, Mr. Murphy, I had the pleasure of seeing you at Dundalk?—I had the pleasure of seeing you.

Had you pleasure in it?—I went down from the table very well pleased.

At what time were you committed to gaol?—Either upon the 31st of October, or the 1st of September.

Can you swear it was in September?—No; but I am sure of October.

This business happened in November or December before?—Yes.

So you roved about at large all that time? Did you tell the people, that the gentlemen at the bar, Mr. Delahoyde and the rest, were to murder all the Protestants?—I did not.

Did you tell any one before?—No; because if I had, I'd be shot in the streets or in my bed.

Were you in custody when you swore against Kenny?—I was.

Did you swear against Smith and Grimes, sentenced to be hanged at Dundalk?—I did not.

Do you know Murtagh?—I do, since put to gaol.

Did he swear against Smith and Grimes?—I believe Murtagh swore against some people. I cannot swear that he did.

Did you hear he swore against them?—I did. He might have sworn against fifty. I could tell of fifty Defenders and robbers from Thomas's gate to Dunleer.

Do you know a robber by his looks? did you ever look at yourself in a glass?—If I was dressed in your clothes, I'd look better than you.

Do you swear that you'd know a robber by looking at him?—I do not.

Are you a robber?—No.

Don't you know you are considered a robber by hearsay?—I do; but show me the man that will prove it.

Don't you sometimes boast of it yourself?—I do not.

Did you never say, here's lame Murphy the robber, that robbed the priest?—I did not.

When did you swear against Kenny?—Some time in September last.

Are you sure it was in September?—I believe it was, before Mr. Schoales.

Were you in custody when you swore against Kenny?—I was.

You say, it was in September; was it before Michaelmas?—It was.

The reason you did not swear before was, that you were afraid, while you were at large?—I had a good right.

Were you in custody till after Christmas, when you swore against Mr. Bird?—It was before Christmas.

How long was it from the time you swore till he was taken?—About a fortnight or three weeks; and I am sure, it was before Christmas.

Did you swear against him before Mr. Smith, the mayor?—I did.

Why did you wait so long? were you not two or three months in gaol before?—I cannot swear.

What do you believe about it?—I cannot swear.

What did you swear about the time—was not it the 31st of October or 1st of September?—It was the 31st of August or 1st of September. I say that now.

You say, you did not swear against the gentlemen till Christmas?—I did not swear against any one since.

Court.—Did you swear more than one information against the traversers?—I swore three informations against them.

Court.—Can you recollect the time?—I cannot write. But it was before Christmas, I swore all the informations.

Court.—Do you recollect about December or the 18th of January last?—Did you then swear against the traversers, Bird, Hamill, and Delahoyde?—I cannot swear positively.

Did not you mention the charges in your information?—I did; and I know more now than I did then, but I'll not mention it.

Court.—As to the matter on trial, did you ever swear against the traversers more than once?—I did against some of them; but cannot swear positively without telling a lie.

Court.—Try to recollect.

Witness.—I cannot, I might know then; but by the tossing about, I cannot.

You did not swear till Christmas, although you knew of it a year before?—I do not swear it was a year. I say, it was about a year.

Court.—What do you say about Mr. Hamill, and the rest?—I say Mr. Bird gave me a crown once, but did not mention any intention.

Did you ever swear, that any of the traversers gave you money on any other occasion?—did you swear, that any committee gave you money?—No; I did not. I gave them money.

For what reason do you think Mr. Bird gave you the money?—It was a dead time of the year, and I was in a distressed situation.

A Juror.—Did you ever work for Mr. Bird?—Never but once, turning some malt.

Juror.—Did he owe you money at the time?—He did not.

Why did you apply to Mr. Bird?—was it because you worked for him?—It was not. It was for seeing him there; and he was the first I met.

Mr. *Attorney General.*—With great deference I would suggest a question to the Court—Why he did not first disclose the whole?

Witness.—The reason was, I had not much influence on the gentlemen; and as I did not know them, I thought it better to wait till another time.

Don't you know more now than you mean to disclose?—you reserve it *in petto* for another time?—I do. I should try the gentlemen first before I tell more.

Court.—What was done with the arms you saw brought into the house of Read?—I saw the boxes broken with stone hammers, and was told arms were to be given to every man of Tiernan's number.

Were the captains of Defenders placed over different numbers?—They were.

Did they ask you to take a gun?—They did. But I told them I had a better of my own.

Did you see the arms distributed?—I did not; but I heard they were.

Did you ever swear they were distributed?—I did not.

Are you sure?—All I swore was, that I saw the arms taken out of a box at Tiernan's, and laid against the wall; they were wet and rusty with the salt water; Tiernan told me, he was to distribute them to his own number. I did not see him distribute any.

Court.—I should be glad to have the mayor to identify the examinations.

Ralph Smith, esq. Mayor of Drogheda, sworn.—Examined by the Court.

[The examinations of Murphy were produced.]

Was this examination of Murphy sworn before you?—It was, my lord, sworn by Thomas Murphy on the table.

When that examination was sworn, did you read it to the examinant?—I did, two or three times, first before it was sworn.

Did the witness make no objection to any thing contained in it?—No, my lord.

Court.—In the examination he says, that after Berrill advised the attack of Mr. M'Clintock's house, they all gave him money at different times, Mr. Bird particularly. He swears also, that when he went to Annagassin, he was told the arms came from France, and that they were distributed *gratis* to several Defenders. He swears besides, that he helped to escort some to the house of Patrick Tiernan, at Turfeckan.

Thomas Murphy's examination resumed.

Court.—What do you say as to the money?—I never got money from any of them but Mr. Bird.

A Juror.—Did any of the committee give you money before?—Is it before the meeting at Tiernan's?

Juror. Yes.

Witness.—I say I never got any money in regard of that night's meeting.

By the same.—Did you ever get money from any other?—I do not remember.

Court.—Is it a thing you might have forgot?—I could not.

Bernard Grimes sworn.—Examined by *Mr. M'Cartney.*

Were you one of the people called Defenders in November, 1792?—I was.

What religion do you profess?—The Roman Catholic.

Were you acquainted with Defenders, in this town, of your religious persuasion?—I was.

Were you ever present at a meeting of theirs in this town?—I was, in the months of September and November, 1792.

Do you know that the description of persons called Defenders, intended to dispossess the Protestants of their arms?—Yes.

In what counties?—In Louth and Drogheda.

Do you know for what purpose?—It was in order to destroy the Protestant religion, and pay no tythes or taxes.

Had they any other intention?—They had. They told me and every man listed as a captain of Defenders, that we should get weekly money, until we should get arms from abroad.

Do you know any of the traversers at the bar?—I know Matthew Read for one.

Was he a Defender?—He was.

Can you mention any one else?—James Bird.

Was he a Defender?—He was.

Any one else?—Roger Hamill.

Was he a Defender?—He was.

Can you mention any others?—Yes, Patrick M'Cay and Patrick Kenny.

Was he a captain of Defenders?—Yes.

Any other persons?—Bartholomew Walsh.

Was he a Defender?—He was.

Do you see any other person that you know to have been a Defender?—No.

You say you were a captain of Defenders?—Yes.

Were you applied to by any person of that body?—Yes.

By whom?—By James Devitt.

Who is he?—He was one of their head commanders in the county of Louth.

Was there a committee of Defenders in this town?—There was.

Were the committee competent to swear persons in?—They were.

Do you know any person of that committee in this town?—I do.

Were any of the traversers of that committee?—They were there.

Were the several persons at the bar, all of them there?—They were.

Were you one of the committee?—I was.

Were you ever present at their meetings?—I was.

Where did they assemble?—In the house of Bartholomew Walsh.

Is it in town?—Yes.

Did they assemble at any other house?—They did, at Peter Cahill's.

Do Cahill and Walsh keep public houses? They do.

Were they Defenders?—They were.

Court.—Is that Walsh at the bar?—Yes, my lord.

Did the committee meet at any other house?—They did, at the house of James Sheridan, in Laurence-street.

Do you know of the traversers meeting as a committee in the house you have named last?—I do.

Were you present?—I was.

In what part of the house did they meet? Was it above or below?—above.

In what manner did they sit?—They sat round about as you do here, on chairs.

For what purpose did they meet?—To give orders to me and the like of me, what measures we should take as captains of the Defenders.

Were you present when the orders were given to the captains of the Defenders?—And in what month?—I was; and it was in the months of September and November.

What orders were given in those months?—Do you recollect particularly the day or the house?—I do. They met at Cahill's house in September.

Were you and the traversers present?—They were.

Did they sit as a committee of Defenders, to give arms to the Defenders?—They did, in September, 1792.

Who brought you there?—Patrick Kenny.

Was he a captain of Defenders?—He was.

What orders were given to Patrick Kenny?—The orders that every man sworn at that time got, was, that weekly money should be given to those sworn in, to get arms from abroad.

From what country?—From France.

His directions were, to get money from the Defenders to get arms?—They were.

For what purpose?—For the use of the Defenders.

Do you mean the Defenders, at that time raising disturbances?—I do.

Were there disturbances at that time in Louth and Drogheda?—There were.

Was foreign aid expected?—We were promised it.

Who promised it?—The gentlemen at the bar, James Bird, Roger Hamill and Matthew Read.

Did you hear them speak of foreign aid?—I did.

Did you hear them say for what purpose?—They said it was to back the Defenders.

Do you know of any other orders?—I do.

What were they?—The second order was to take the arms of the Protestants.

Were the first orders to raise money for the purchase of arms?—They were.

For what purpose?—It was, *To destroy the Protestant religion or get their ends;*—they said, *that the Protestants were long enough over them, and should be so no longer.*

Do you know, was there any money levied by the captains in pursuance of the orders?—There was.

Did you raise any?—I did; but did not return it.

From whom did you get it?—From several people in the country;—I can mention a hundred.

Court.—Did you get much money in this manner?—I got about seven or eight pounds.

A Juror.—Was it for the Defenders?—No, sir, it was for arms.

Do you know, were arms brought from abroad?—I do.

Did you ever see any?—No; but I heard so.

Do you recollect any other orders given at any other times?—I do.

Did you say, that the first committee swore any persons attending that were not members?—I did not. They would not be admitted *barring* they belonged to it.

Did you hear any thing about the soldiers, in the committee?—No; I did not.

You say, there were risings and disturbances in the country at that period?—There were.

Do you say, the gentlemen at the bar were of the committee that directed the proceedings of the insurgents?—I do.

A Juror.—Name the persons concerned.

Witness.—James Bird.

Do you swear positively that he was a member of the committee, that directed the Defenders?—I do.

Who else?—Rory Hamill.

Who else?—Matthew Read.

Was he one of the members that directed their proceedings?—He was.

Who else?—Patrick Kenny.

Who else?—Bartholomew Walsh.

Any one else?—I don't see any other.

Do you take on yourself positively to swear, that these gentlemen were of that committee *that directed the proceedings* of the Defenders?—*I do.*

A Juror.—Where does Peter Cahill live in town?—In West-street.

Do you recollect any mention made of the church at that meeting?—There was.

What was the purport?—It was to attack the Protestants and soldiers at church and in the barracks.

What did they intend by this?—It was said, that a party of Defenders were to attack the soldiers and Protestants at church; and another party was to go to the barracks, and take the arms.

Why did you prefer attacking them in the church?—Was there any reason, why you would particularly choose to attack them there?—The reason was because they had not their arms.

A Juror.—Did you hear this talked of at the committee more than once?—I heard it, when the meeting was held at Cahill's in West-street.

Cross-examined by Mr. *Ponsonby.*

Mr. Grimes, your name is Bernard, I believe?—It is.

Are you brother to Patrick Grimes?—I am.

Is he hanged yet?—No.

Was he not capitally convicted of being a captain of Defenders?—He was.

Why has not he been hanged?—By the interest of the gentlemen, I suppose.

Pray, were not you convicted of some offence yourself?—I was.

Were you pardoned?—I was not. I was only laid down for two months imprisonment.

What were you tried for?—As a captain of Defenders, and heading a riotous mob.

You enlisted I believe?—I did.

And deserted?—I did.

Pray, give me leave to ask, at what period you became a committee-man?—It was some time in 1792 that I got articles.

Those articles, I suppose, were your commission?—It was.

Have you it about you?—No; I have not.

What did you do with it?—I gave it to the gentleman.

To what gentleman?—To Ralph Smith, mayor of Drogheda.

At what time?—Some time in January.

How long were you a committee-man?—From the time I got the articles till my imprisonment.

Were you at a meeting of the committee?—I was.

How did you get your bread before?—By my trade.

What trade?—A weaver.

Were you made a captain at once, before you filled any inferior station?—I was.

Were you admitted into the committee?—I was admitted when captain.

Were other persons admitted?—There were.

Can you tell what persons. Try to recol-

lect?—I can tell who were admitted at that time.

Who were the persons admitted?—Several gentlemen in the town of Drogheda were admitted.

Were all gentlemen admitted as well as captains?—No; except of that side.

Then all gentlemen Defenders were admitted?—They were.

Do you know any thing of captain Thomas Murphy?—I don't know any such captain.

Did you see the man that was examined here, at the committee?—He was.

Can you recollect the time when you became first acquainted with the practices of the Defenders?—I can recollect the time. It was in Spring, 1791.

Do you recollect the time when you first gave information against the committeemen?—I can.

When?—It was some time in December or November, 1793.

Do you mean last December?—Yes, sir.

What made you give information last December or November?—It was in regard to my own safety.

Why not before?—Because I thought they would stand true and loyal to each other as before; but I saw they did not.

Why did you think your own safety concerned in it?—I was not positive sure whether or not.

I do not understand that. Explain, what made you think your own safety concerned one way or the other; and why you thought the information necessary?—Because I never saw many hurted that did so.

And so, because you never saw many hurted that did so, you thought it necessary for your safety?—What do you mean by that?—Because I never saw any of the approvers hurted.

You turned approver, because approvers were not hurted?—I turned approver, because in the protection of the law.

Were any other persons at that meeting besides the persons you mentioned?—There were.

Why did you not give information against the others as well as them?—If all were present by I would tell you.

You gave information before the magistrates of the county of this town?—I did.

Why did you confine it to these gentlemen?—I saw several at that meeting; but they are not here.

How came you not to give information against them, as well as against the persons here?—I did, against several others.

Where are they?—I don't know.

Are they prosecuted?—I did not hear.

Where do they live?—In the county of Louth, and town of Drogheda.

Where do they live now? What do you believe?—I am not positive sure.

Do not you believe they are at home now?—I can't tell. They may be either here or at home; I don't *know whether or not.*

Do not you believe they are either at home or here?—They may be either here or at home.

Court.—Cannot you form a belief where they are?—My lord, I cannot tell.

Court.—Cannot you form a belief?—I don't know, my lord.

Do not you believe they lived in the town long after you gave the information?—They were.

Pray, sir, as you are so well acquainted with affairs from the year 1791 to this period, did you hear of many meetings of Roman Catholics in this town?—I did.

Did you hear that Mr. Bird and Mr. Hamill were active about the Roman Catholic business, and of resolutions being published in the newspapers?—I did.

Court.—What were the meetings of the Catholics about?—It was about the Roman bill, and their petition to government.

Can you read?—I can.

Did you ever read of Mr. Bird's or Mr. Hamill's names in the newspapers?—I did.

Did you hear of a meeting of the Roman Catholics in Dublin, or what was called their convention?—I did.

They were appointed delegates to that meeting?—They were.

They were very active?—They were.

When the committee met at Sheridan's and Cahill's house, had they drink?—No; they had not.

In what room in Sheridan's house was the meeting held?—In a back room up stairs.

How many pair of stairs?—I cannot tell, nor I won't.

How many pair up?—I can't tell.

What room in Cahill's house did they sit in?—In a room fronting the street.

How many pair of stairs up?—I can't tell.

Cannot you tell how high up?—It was the first room when you go up, fronting the street.

Do you recollect what furniture was in the room, at Sheridan's?—There were some chairs, a table and a bed. I believe there was a chest.

Do you recollect what furniture was at Cahill's?—There *was* chairs and a round table. It was a decent looking place.

Do you recollect, at what hour they met?—Always in the evening on Sundays or holidays. They went one by one.

Do you recollect, how many people used to be there, when they all met?—I cannot tell.

To the best of your belief?—I never took an account of the number. There were several people.

Do you think there were 30 or 40? Think what number?—The room could not hold many. Not as many as you think.

How many do you think? Were there 30 at any meeting? Were there 20 persons present at any time?—Not of the lower class of people.

You say several gentlemen used to go to the meeting that are not here?—Yes.

Will you name some of the gentlemen that used to be there?—I will.

Mr. *Ponsonby.*—Name every man you know.

Witness.—There was Roddy Hamill, James Bird, Matthew Read, Peter Cahill, Philip Duffy, Pat M'Cay, John Berrill.

Mr. *Attorney General.*—My lord, with great deference, I must object to any farther disclosure of names of persons not on their trial. Throughout the circuit it has been the custom to stop such proceedings *in limine.* If permitted, it might throw imputations on innocent persons, and furnish the guilty an opportunity to fly.

Court.—I object to ask him any more of the particular persons there.

Mr. *Ponsonby.*—My lord, my object is, to have them confronted with the evidence.

You are sure, James Bird, Roger Hamill, and other persons gave you directions, to get money for the Defenders, which you kept and did not give up?—They did.

How much money did you get from each person?—I got according to their ability.

You were ordered to get a shilling from one, half-a-crown from another, and so on for the purpose of buying arms in France? And that was said in the committee?—It was.

Is Mr. Bird a rich or a poor man?—I hear he is a rich man.

Is Mr. Hamill considered a man of wealth?—Yes; the same as the other.

Do not you think, if they wanted arms, they could lay out their money without disclosing their plan to so many; and that it would be safer than to send such a number of people about, collecting money?—I do.

Were not they fighting in France at that time, and do not you think the arms would be wanting for their own use?—Do you think they were cheaper there?—I was told so.

What gaol were you sent first to after your return from England?—I was sent first to Drogheda when taken, and afterwards transmitted to Dundalk.

Did you give information of these matters, when first sent to Dundalk gaol, or in Drogheda?—I did not.

Did you hear the French were to come?—And do not you think they are very good fellows, and would give you arms?—I believe several parts of France are not under the Roman rules.

What do you mean by being under rules?—I can't give any reason.

Does not it seem odd, if the French were good friends, that they would demand money for arms?—It does seem a little odd.

You say, your brother was capitally convicted at Dundalk?—He was.

Did your brother receive his pardon before *your information?*—I believe not.

What crime were you convicted of?—For being captain of the Defenders, and heading a riotous mob.

Were you discharged from Dundalk?—I was brought to enlist and sent abroad; but did not go voluntarily.

You say among other persons present at the meeting, you saw Mr. M'Cay?—Can you point him out?—I can.

[Here the witness identified Mr. M'Cay in court.]

Look about, do you see any more?—I can't see any more.

Cross-examined by Mr. *Dobbs,* counsel for *Bartholomew Walsh.*

Did you ever get any thing as an approver?—No.

Who purchased that coat?—My own money.

Who made it?—Patrick Tiernan, tailor.

Who bought the cloth?—Tiernan.

You said you paid for the coat yourself?—Did you give the money to Tiernan to pay for it?—I did.

And paid him for making it?—I did.

Examined by the *Court.*

You say, at the meeting you described, Bird, Hamill, Read and Walsh were present?—I do.

Do you know, whether any of the other persons are on trial besides?—I do not.

Court.—Look at the dock, and see.

A Juror.—Name them.

Witness.—There is Patrick Kenny, Matthew Read, Bartholomew Walsh, Roger Hamill, and James Bird.

Is there any other person in or about the dock, that you saw at the meetings?—There is not, my lord.

Do you know any other of the men on trial besides those you have named?—I do not.

[The clerk of the crown being ordered by the court to read the names of the traversers, read the names of Roger Hamill, James Bird, Casimir Delahoyde, Patrick Tiernan and Bartholomew Walsh.]

Did you ever see Delahoyde or Tiernan at the meetings, or any persons of that name?—I did not, my lord.

Court.—Let Delahoyde and Tiernan stand forward.

Did you ever swear examinations against either of those persons?—I did in Drogheda, for taking oaths in the county of Louth.

Did you ever swear against either of them, for any other offence besides taking the oaths?—I did not my lord.

I think you said you never saw either of them at any of the meetings you have mentioned?—I did not, my lord, see either of them at the meetings.

When did you swear against Ti tendering the oaths?—Some time i ber, 1793.

Did you ever swear against Tiernan at any other time?—I did not.

Did you ever swear, that Patrick Tiernan was a member of the committee you spoke of?—I did not.

Or any person of that name?—No.

Do you know Patrick Tiernan well?—I do.

Where does he live?—At Turfeckan.

Did you ever know him to be at any of the committees?—I did not.

Did you ever swear he was?—No, my lord.

Do you write your name?—I do, my lord.

[Grimes's examination sworn before Alderman Harman being produced, and his signature being shown to him, he acknowledged it to be his writing.]

Is that the examination sworn by you?—It is, my lord.

Alderman *Harman* sworn and examined.

Mr. Harman, do you know that paper?—It is the examination of Bernard Grimes taken by me.

Of that person on the table truly?—Truly it is.

Bernard Grimes's examination continued.

You have never seen Tiernan at any of the meetings, nor sworn you did?—I did not.

Could you have done so and forgot?—I never swore against him for being at a committee.

Court to the Clerk of the Crown.—There are names in this examination that ought not to be read. Read the examination, omitting the names of all but the traversers.

The following extract from the examinations was read by the clerk of the crown:—

"That he, Bernard Grimes, had been a member of the Roman Catholic committee sitting in Drogheda for the purpose of overturning the Protestant religion and government, &c—That Patrick Tiernan of Turfeckan in the county of Louth was a member of the committee, and seen by the examinant either at the house of Cahill, Sheridan, or Walsh.

Court.—That is enough. The examination states all the committee. Did you ever swear that?—I did not, my lord.

Court.—You may go down.

[Here the case for the Prosecution rested.]

DEFENCE.

Mr. *Curran.*—Being counsel for the traversers Mr. Bird, Mr. Hamill and Mr. Delahoyde, now on trial, I find it necessary, without proceeding farther, to offer to your lordship and this very respectable jury, some general observations on the extraordinary case of my clients, and the singular preposterousness of the charges in this accusation, as laid before you in evidence.

It is an accusation, that of its nature must involve a black degree of enormity in any country. It implies a criminal intention, which if carried into *effect must loosen* every bond of society, and plunge that country which should unhappily be the theatre of such atrocity into the most inconceivable state of calamity and wretchedness; no matter how rich and prosperous might be its previous condition. The existence of a state is like the existence of life in man; and to take existence from the political body is similar to taking the life of an individual; with this difference, that the consequence of the one is so vastly superior to that of the other, that to determine the proportionate criminality would be as visionary as impossible.

The charge against my clients is—that they are enemies to their country and its government;—that they are adverse to its settlement, its peace and its prosperity;—that they have formed plans to spread general discontent, confusion and divisions, for the purpose of destroying the advantages derived to the nation from a state of well ordered tranquillity;—and that for carrying such an abominable project into execution, they have employed for their agents the greatest miscreants in society!

It is that sort of guilt, at countenancing which, every man of character and sensibility must recoil. But it is for you gentlemen, to consider, that an offence of such great enormity is not lightly to be believed, and requires to be proved by the strongest evidence.

It is not my intention at present to enter into any very minute observations on the evidence which has been this day laid before you; if that shall be necessary, one of the learned gentlemen here, will do so.

There are few general circumstances upon which to observe from the facts related in evidence. The state of the country for some time past, and particularly the state of that body of your fellow-subjects against whom suspicion and calumny seem to have been directed, are circumstances that must here be observed upon, and cannot fail of exciting in your minds some of the tenderest feelings.

In last year's parliament, one of the most glorious triumphs that ever this country witnessed, was obtained by that body, over the blackest prejudice and injustice, exasperated by imaginary wrongs. That fatal disunion, from which for centuries great individual calamity and public disquietude had arisen, had the axe laid to its root by the senate of the nation. And there was no good man in the community, who did not look to the consequences of it to be, the security of the peace, industry and happiness of the country, and an exemption from the calamities of the nations, around us.—Upon such a great occasion, there must necessarily be diversity of opinions; but I am sorry to say, that prejudices are not yet removed from persons of a lower description.

There was at that time, an obloquy thrown out against the committee of our catholic brethren sitting at Dublin;—but I speak in the presence of a protestant jury and a protes-

tant judge, and I say, that in history there is no example of any such proceeding being carried on with more decorous tranquillity and strictly legal propriety. Their orderly, decent and respectful perseverance was crowned with that success, which, it was imagined, would confer happiness on themselves, and on whose who were to come after them. It was expected, the disturbances which had been occasioned by a ruinous system of law, would be done away; and that there would be a coalition of all parties, formed into one united phalanx, and feeling, that their country could never be prosperous or happy, without a general participation of freedom to all its people.

A privileged order in a state, may in some sort, be compared to a solitary individual separated from the society, and unaided by the reciprocal converse, affections, or support of his fellow men. It is like a tree standing singly on a high hill, and exposed to the rude concussions of every varying blast, devoid of fruit or foliage. If you plant trees around it to shade it from the inclemency of the blighting tempest, and secure to it its adequate supply of sun and moisture, it quickly assumes all the luxuriance of vegetation, and proudly rears its head aloft, fortified against the noxious gales which agitate and wither the unprotected brambles lying without the verge of the plantation.

Upon this principle acted the dying man, whose family had been disturbed by domestic contentions. Upon his death-bed he calls his children around him;—he orders a bundle of twigs to be brought;—he has them untied;—he gives to each of them a single twig;—he orders them to be broke: and it is done with facility.—He next orders the twigs to be united in a bundle, and orders each of them to try their strength upon it.—They shrink from the task as impossible.—Thus, my children (continued the old man) it is UNION alone that can render you secure against the attempts of your enemies, and preserve you in that state of happiness which I wish you to enjoy.

Such should be the effects of the liberty conferred by the act of the last session of parliament; and such I believe they would be, if not for the misconceptions of a lower description of people, who may have imagined that a more respectable order of persons had the same passions and dispositions as themselves. I cannot attribute the accusation altogether, to the irregular proceedings going forward for some time in this part of the country; but rather to vague charges, which I have read with concern, brought against a description of persons, the calamities of whose ancestors must have peculiarly influenced to a demeanor directly the contrary.

However ruinous the charges against the *individuals* may be, that alone does not terminate the mischief. These reports will go abroad.—*they will* be carried to the seat of government; and it is impossible to say what impressions may be made there to the disadvantage of a great portion of our countrymen. But, would to God! the powers in England were present this day, to hear the charges made against a respectable body of persons, and the manner in which they have been *attempted* to be proved.

It belongs to me to speak only of three persons, Mr. Bird, Mr. Hamill, and Mr. Delahoyde. It is not the unhoused villain and profligate vagabond upon whom you sit in judgment. It is the opulent and respectable merchant,—the man who owes every thing to his public character. This is the description of men to be tried.—It cannot possibly be imagined, that the plan had been formed to excite previous prejudices in their favour. If it was, the manner of their arrest and subsequent treatment shows them to have been much disappointed.—Mr. Bird was taken out of his bed at eleven o'clock at night, and brought to the capital, under a military guard, after a very uncomfortable imprisonment of one night in the town-house.—He was not indulged in the common decencies of imprisonment—nor suffered to enjoy the visits of his friends—an indulgence permitted to the most flagitious criminals, however low their description.—Pen and ink were denied him; and he was brought to the capital, and there lodged among the vilest malefactors.—He applied to the court of King's-bench to be admitted to bail, fancying from his character he would be admitted.—That was denied him.—From this, it might be imagined, that there was some respectable witness or prosecutor of character to criminate him.—You have all seen and heard them.

I certainly consider, that when crimes of this kind are committed, it must be necessary that some of the parties concerned should turn approver;—I am well aware, that to shut out such from examination, would be to stop public justice; but yet, I did imagine, that in the present case some respectable witness would come forward to disclose the turpitude of the offence.—To support the enormous charges in the indictment, one Murphy has been produced. But, as gentlemen who are chosen to decide on a matter, upon the issue of which the safety of a great part of the population of Ireland depends, I ask you,—is there safety for the life of any man, if the testimony of such a witness has weight in a court of justice?—Upon his examination, he declared to the learned judge, that he had been examined before, at Dundalk, and acknowledged, that there the jury showed no respect to his evidence; and therefore he did not wish to be examined! To decide on the evidence of a man having such apprehensions of himself, a jury should decide with extreme caution. The man to be believed [illegible] spectable jury against respectable [illegible] Murphy, confessedly a robber by [illegible] tried twice in another county upon

a flagitious nature, and discharged out of court by proclamation.—If you believe him, you must credit the testimony of a man who acknowledges himself to have fired shots into the house of Mr. M'Clintock with an intent to commit murder. When the prosecutor lodged these examinations, it appears he was in gaol, in actual custody.

It is now for you to consider, whether in your unbiassed judgment the story hangs well together?—Mr. Bird and Mr. Hamill, it is well known, exerted themselves much in forwarding the cause of the Roman Catholics. You are told, these gentlemen formed committees in alehouses;—that they there associated with the vilest miscreants, to assassinate the Protestants of the land, at a time when the object they had in view was going on prosperously in the legislature of the nation!—Is it likely, that at such a period, they would form a plot for the extermination of their Protestant fellow-subjects?—Such a supposition is contrary to common sense. Is it likely that a country reduced to such an unhappy state, that manufacturers are in a state of requisition for the fabrication of arms, should be considered an eligible market for their purchase?—It is to me peculiarly nauseous to take up much of your time in describing the character of a wretch like Murphy, I shall therefore proceed to the matter most worthy of your consideration.—Some of the jury who sit here to day, sat in this court yesterday. They must have heard the observations made by the learned judge who presided—"If (said the learned judge) a witness forswears himself in any material circumstance making a substantive part of the accusation upon which the prosecution is grounded, the rest of his evidence, although it may be true, should be discredited."—I speak this in the recollection of several gentlemen present. If I have stated it wrong, I am sure they will set me right.—Gentlemen, I now call upon you to put this principle in practice.—Murphy swore in his examinations, that he saw money distributed at the committee upon several times and occasions; and that all the persons charged gave the examinant money at several times. Does not all this appear, from his own evidence, to be false?

Gentlemen, upon such an occasion as this, there is no man but may be drawn beyond the line of calm discussion. For that reason, I have studiously endeavoured to argue the subject coolly; and therefore, to come to a cool examination of facts.—Did Murphy, in his examination, swear he got money from all the traversers at the bar, and did he on the table swear, he got money but from one?—And is there any jury that will be so base, as to found a conviction upon such evidence?—I am well aware, gentlemen, that nothing is more strongly corroborative of the truth of an evidence, than little accidental deviations in immaterial circumstances. The present must appear to you, however, quite a contrary case.

What has he said of arms?—In his examination it is stated, that he saw a box of arms landed at Annagassin and distributed.—What has he said himself on the table?—That he did not see them distributed, but laid against a wall.—Is this no material circumstance in the prosecution? If you ask, is it material? I tell you, it is. It is a part of the charge for procuring and distributing arms for the abolition of the Protestant government. I speak in the presence of the court, and in the presence of a right honourable gentleman, my personal respect for whom prevents me from saying what he knows I think of his conduct. —The procuring of arms for the purpose specified is a circumstance highly material to the prosecution. It amounts to an act of high treason. I mention this, to show, upon that fact you have certain evidence of perjury. You have better evidence of the fact, than if he had been indicted for perjury.—You have the man confronted by his own oath. When a man swears two ways upon the same fact, it is physically impossible that he should not be perjured.

There is another person brought forward as a witness in this prosecution, whose state in society it is difficult to ascertain.—He was *indicted — tried — convicted — pardoned — enlisted—deserted—retaken—brought to gaol, and becomes an approver!* If, gentlemen, you apply the same rule to this man, you are to consider, has he also perjured himself in a material fact?—Gentlemen, it is for you to exercise your judgment in this affair.—I had not the informations. It was impossible for me to know any thing about Tiernan; impossible for me to be acquainted with the fact, of his having lodged an information against him, as he denied it on the table.—In the information read by his lordship, the examinant says, he knew the place of Tiernan's abode; that he has been acquainted with him intimately for six years; and saw him frequently at the Defenders committees, in company with the traversers.—What is his evidence now? Directly the reverse. You have heard him swear, that he never saw Tiernan at any of the meetings.—You have heard more.—You have heard him swear, that he never swore so. His lordship asked him, could he have sworn to that effect and forgotten it?—He swears positively not. Here is a direct and irreconcileable contradiction between his examination sworn before a magistrate, and his testimony on this table. And here gentlemen, you must be convinced, that it is impossible he could be forsworn in so material a fact, if not intentionally. You must see clearly that he is deliberately forsworn.

Indeed, if it was not known by unfortunate experience, and particularly in many recent instances, it could scarcely be conceived, that such abominable turpitude could find place in any human being.—It could scarcely be conceived, that any being, endued with a

rational and immortal soul, would deliberately come forward, to forswear himself in a court of justice, and in the face of heaven to "bear false witness against his neighbour," under such circumstances, as if credited, must cause the life of the accused to be forfeited. Such acts can only proceed from minds the most obdurate. If you see this done in the present case, you must consider it a crime against a great body of your fellow-subjects, and tending directly to disunite the people. It must be of high consideration to you, that when you acquit, you will be able to say, you do not merely acquit because you cannot condemn; but you acquit from a secondary motive, of discountenancing the persecution of any particular description of people.

The gentlemen here to-day at your bar are merchants, men whose most valuable property is the integrity of their characters. They have correspondents in foreign countries, in Great Britain, for instance. What effect then must it have, when read in foreign newspapers, that such and such men were taken up, to be tried for rebellion against the laws of the country where they live? How will any merchant in England be able to discover, whether they may not really be guilty of the crime against society with which they are charged?—I know from recent experience, that an acquittal, however honourable, does not wipe off the aspersion which such charges cast on men's characters. I have particularly experienced it in a neighbouring county. I have there been asked, did not I think Fay had a lucky escape!—I am aware, gentlemen, you must have a conviction, that what has been brought forward in evidence, is false; but where allegations of this sort are made, it is proper to try them in the most public manner.—I know your characters, and I think you will not content yourselves with a mere acquittal. It should not be alone—it should be accompanied by something calculated to do away the unjust imputations upon the characters of the accused.—If, however, you consider farther evidence necessary, or feel any dissatisfaction upon your minds, we can produce two or three witnesses.

Patrick M'Coy.—Examined by Mr. *Recorder.*

I believe, sir, you are a merchant in the town of Drogheda?—I am.

Do you know the traversers?—I know the traversers, Hamill, Bird, Delahoyde, Read, and Walsh.

Were you present in court, when Grimes, the last witness, gave evidence?—I was.

Pray did you know him before you saw him on the table?—I never to my knowledge saw him before, or spoke a word to him since I was born.

That man pointed you out as being present at a committee in the house of Sheridan?—I was never in that house in my life, nor have I ever seen Grimes present at any committee.

Court.—You say, you were never in that house?—Not to my knowledge.

Court.—Do you know Sheridan's house?—I do not.

Court.—Were you ever in either of the other houses, Walsh's or Cahill's?—I have; but never in company with that man.

Were you ever at a committee of Defenders?—I was not; nor do I know who are Defenders but from hearsay. I am no Defender, nor have I ever sat in any committee of Defenders.

Were you a member of the Catholic Committee in this town?—I was.

Did they ever meet in the house of Sheridan or Cahill?—Not in my time.

Where did they meet?—At Divin's.

Peter Cahill sworn.—Examined by Mr. *Blackburne.*

Where do you live?—In West-street in this town.

Do you keep a public-house?—I do.

Do you know a man of the name of Bernard Grimes?—I never saw the person, to my knowledge, before this day. There was a person who called one morning at my house,—he sat in a room in the lower part of the house where all people are admitted promiscuously, and took a naggin of whiskey; I was told after he went away that it was captain Grimes.

Do you know of any committee of Defenders having been held in your house?—Never. Nor do I know any one to be a Defender, nor where they have held their meetings.

Did ever a committee of any sort meet at your house?—No; except you call the established corporations of trade, committees. There never was a meeting in the form of a committee in my house. There are very respectable gentlemen of this town, who have met in my house these two years past, twice a week. They meet in a room up stairs, where none but genteel company are admitted. Some of them are aldermen of the town. The company is mixed, consisting of Protestants and Roman Catholics, as loyal, and as attached to the constitution, as any subjects his majesty has. I, for my own part, was so astonished at hearing myself accused, that if I had not been called on, I was just coming into the court to petition to be tried immediately, being fully convinced that all he swore was a lie.

Do you believe that what the approvers Murphy and Grimes have sworn against the traversers is false?—I am sure it is completely false.

Cross-examined by Mr. *Saurin.*

You say you are a publican in this town, but do not entertain persons in your rooms up stairs but respectable character?—now, have you ever seen the ma suppose?—Not the present mayo

past mayor often. The present mayor does not, I believe, go to any public-house.

Have you ever seen Mr. Harman there?—No.

Have you ever seen Mr. M'Cay in your house?—Yes, I have seen both him and Mr. Hamill frequently in that mixed company.

Does Mr. Bird resort your house?—Very seldom. About two years ago, he imported some porter, some of which I bought from him. After that, he came once or twice and took a pint; but I considered him a very bad customer, and would as lief he would not come at all.

James Sheridan sworn.—Examined by Mr. *Ball.*

Do you know Devitt?—I have seen him.

Was he ever in your house?—Yes.

And up stairs?—I believe not.

Where do you live?—In Laurence-street.

Do you know the traversers, Bird, Hamill, and Delahoyde?—I do.

Did they ever sit in committee in your house?—Never; they could not be there unknown to me.

Did they never come to your house, on any business?—I never saw them in my house.

Did any company of Defenders ever come to your house?—Several people have come to my house, that might be Defenders. I don't know that any Defender was ever in my house.

Have you any room above stairs?—Yes; I have one for yarn, and one for warping. There is only one more, for soldiers.

What trade are you?—Are you a weaver?—I am, sir.

Is there a bed in your room up stairs fronting the street, and a table and forms?—There was no bed in that room these two years and upwards, only once about six months ago, that I was obliged to fix one in it for a corporal and his wife, that were billeted on me.

William Dillon, esq. sworn.—Examined by Mr. *Recorder.*

Do you know Thomas Murphy the prosecutor?—I do.

How long?—I know him about two years. I took him for robbing an old priest at the Naul, of ninety years old.

Do you think him a person entitled to credit in a court of justice?—I do not. From my knowledge of him, and the general report there is no worse character.

Alderman *Schoales* sworn.—Examined by Mr. *Dobbs.*

Do you know Thomas Murphy that has been examined?—I do.

Do you believe him to be a person entitled to credit?—I do not. I do not know what the Court may think; but I am sure he is a bad character, and not to be believed.

Alderman *Ackland* sworn.—Examined by Mr. *Hawthorne.*

Do you know the prosecutor Thomas Murphy?—I know him to be a man of infamous character, that does not deserve credit As a magistrate, I can speak with more certainty, and I know him to be infamous.

Mr. *Dobbs.*—Being concerned for two of the traversers, I shall bring forward one or two witnesses as to the character of Grimes, the other approver. It will not detain the Court many minutes.

Dennis Read sworn.—Examined by Mr. *Dobbs.*

Do you know the general character of Grimes the prosecutor?—I do.

Do you think he is worthy of credit in a court of justice?—I think not. He is a man of an infamous character.

Cross examined by the *Attorney General.*

How long do you know Grimes?—About two years.

Do you believe Mr. Bird to be a gentleman of character, and that if Mr. Bird gave Grimes a character he should be believed?—I am sure if Mr. Bird really knew his character, he would not give him a good one.

Reverend *Thomas Counsel* sworn.—Examined by Mr. *Recorder.*

You, sir, are a clergyman, I presume?—I am.

Where do you officiate?—In Turfeckan and Monasterboyce.

Tell the gentlemen what you know Mr. Bird and Mr. Hamill did at your chapel two years ago?—They did every thing in their power to dissuade the people from having any concern in the riotous proceedings of the Defenders.

Cross-examined by Mr. *M'Cartney.*

Did you curse any one in your chapel for being an approver?—Never; Grimes was mentioned in the chapel as an infamous character, with whom the people should have nothing to do.

Patrick Tiernan, tailor, sworn.—Examined by Mr. *Dobbs.*

Mr. *Dobbs.*—I produce this evidence to show that Grimes swore falsely as to the coat.

Do you know Bernard Grimes, the man examined?—I do.

Were you employed to buy a coat for him?—I was.

Did you get money for it?—No.

Whom did you get the coat from?—From Mr. Linton.

Did you get money from any one?—I did not.

Where did you get the coat?—At Mr. Linton's shop.

Where did you take measure of Grimes?—In gaol.

Did you take measure of him only for the coat?—I did for the whole suit.—Grimes

...ine measure him for all; but Mr. Lin... would give me no more than cloth for the ..., as he said the gentlemen gave him money ...o more.

Cross-examined by the *Attorney General.*

When did you get notice to attend here this day?—On Saturday last.

Did you know for what business?—I did.

Mr. *Attorney General.*—I beg leave to offer to the consideration of the Court, a certificate given in testimony of the character of Grimes by the traverser, Mr. Bird.

[The certificate was produced in court and read. It was dated March the 2nd, 1793, and signed by Patrick Gernon, John Dowd, William Skelly, James Bird, and John Jones.]

Mr. *M'Cay* again examined.

Mr. M'Cay are you acquainted with the hand-writing of Mr. Bird?—I am.

Do you believe the signature of that certificate to be his writing?—I believe it is.

Mr. *Bird.*—I acknowledge it is my writing.

Mr. *Curran.*—How many names are there before Mr. Bird's?—There are three.

Mr. *Attorney General.*—Mr. M'Cay, do you consider the body of that certificate to have been written by Mr. Bird?—No; nothing but James Bird.

REPLY.

Mr. *Attorney General.*—My lord, and gentlemen of the jury; I attend on the part of government to prosecute the gentlemen at your bar. I should not trouble you with a single syllable on the subject, but in consequence of some observations made by the learned gentleman who addressed you on behalf of the traversers, and another circumstance that seemed rather insinuated than expressed. I shall act the same part upon the present occasion, that I have upon all the unhappy prosecutions that I have been obliged to carry on for these two years past. Never to make any observations on the evidence, but leave that to the Court.

Something has been said, that people of a lower turn of mind may have considered others to be influenced by the same passions as themselves.—A great deal has been said relative to laying aside religious prejudices.—Surely, no such thing as persecution has appeared on this prosecution.

What I shall say, shall not be with a view of influencing in any manner such respectable characters as I see in that box. I speak only to show the necessity and propriety of the present prosecution. It is for me to show, that the magistrates who took the examinations, and the servants of the crown, who have conducted the prosecutions, have done nothing but their duty.

In the year 1791, these disturbances commenced. Whence, it is not for me to inquire. But it is notorious, that owing to these enormities, the counties of Louth, Meath and Cavan were nearly deserted; and that no man of industry or fortune could go to bed in peace.—It is as notorious as the sun that shines, that this business was carried on there by a regular system. It did appear in a hundred instances that committees for insurrection were held in various places; and that, by them the commotions were caused and ordered to be carried on.—It was as notorious as the insurrection itself, which spread so widely through the counties.

It was impossible but the officers of the crown, appointed to carry on the prosecutions, must see that there must be people of a description above the lower order, to direct these proceedings. And when unfortunate and ignorant wretches suffered the punishment of the law, it must be matter of regret to every man of feeling, that the principal offenders should escape. And here let me say, that owing to the mildness of government, although many were convicted, but few suffered; and those that did were guilty of some other enormity.—In this we had to lament, that the principal offenders were not punished, who, we had reason to think, were of a better class than the poor wretches in the docks.

In December last, the magistrates of this town were called on, to receive the information of Murphy. The magistrates were bound to take the examination. It was perfectly consistent with what had appeared in the neighbouring counties, and the several prosecutions on this unfortunate business.—Murphy, it appears, had been a man of some property in this town; and he was not then committed on any criminal offence.—Stress has been laid on what appeared in his evidence in a former trial. That ought not to affect any man.

Grimes, the other approver, is a man unimpeached till this moment. That man gave evidence, but not exactly the same as that related by Murphy; which shows the plan was not concerted between them previously. Mr. Bird, one of the traversers, gave him a certificate, in which he gets a character for sobriety, industry, and filial piety. This being seen and known, I ask, could the magistrates under such circumstances refuse to receive his examinations? And could the crown avoid having these matters inquired into? Even if the charges do not appear credible, it must be essential to the public peace and justice, that inquiry should be made. The law knows no distinction of persons. Whether they are merchants or others, that are accused of a crime to disturb the peace of society, they must undergo a legal trial.

Something has been said, as if oppression had been used towards these gentlemen If there has, I never heard of it before. I oppression had been used, and a con made, it should be redressed in half at

If any man in the exercise of law, practices oppression, that man will be punished.

Something has been said about bail. I must say with deference, that the magistrates in this case ought not to have taken bail. If any magistrate had admitted the traversers to bail, he would deserve, and probably suffer punishment.—They were brought to the court of King's-bench, and there bailed with the decent forms of law.—Mr. Delahoyde was bailed by a magistrate here; but it was by my directions.

Pardon me for saying so much upon a subject, not perhaps absolutely necessary for some to hear. But it is not sufficient that justice alone be done. It is proper, the public should know, that equal justice should be done to every man of every description; and that nothing is more abhorrent from the ideas of government, than to countenance or carry on a persecution against any body of subjects, It is necessary—THAT THE PEOPLE OF EVERY DESCRIPTION, SHOULD BE UNITED WITH EACH OTHER, IN SUPPORT OF THE LAWS AND CONSTITUTION, UNDER WHICH WE LIVE SO HAPPILY.

SUMMING UP.

Mr. JUSTICE DOWNES.—Gentlemen of the Jury; The traversers are charged in the information—for having conspired and confederated, of and concerning the raising and inciting a rebellion to overturn the constitution and established government of this kingdom; and of and about the procuring arms and armed men for that purpose. This charge has been formed into an indictment for a misdemeanor.

The charges have been supported in evidence by Thomas Murphy, who, if believed, brings home the accusation against all the traversers, except Bartholomew Walsh.

The other witness, Bernard Grimes, speaking of similar meetings, mentions Bartholomew Walsh to have been present.—So that both evidences taken together, if believed, prove the charge against all the traversers. It is to be observed, gentlemen, that the meetings spoken of, though similar in their object, are not pointed out to have happened on the same day.—If you believe the accusations as laid before you in evidence by the two witnesses, these meetings have been held for the same object, and with the same design. The object of the meetings, if the evidence is credited, was, to form a general conspiracy, to destroy the religion and government of the country. And if any overt act had been done in consequence, the crime would amount to nothing less than HIGH TREASON.

The learned counsel for the traversers made a very proper observation, that where charges are brought for offences of great magnitude, they should be proved satisfactorily. As you have all taken notes, it will not be necessary for me to go through the examinations very minutely.

Gentlemen, you will be particularly cautious in examining the case, as the particular crime charged on the traversers is not the only crime, in which, it appears, the witnesses acknowledge their own guilt. The first represents himself, as a person who attempted to commit murder, and that he had the general character of being a robber. The state of the circumstances in general is well worthy of your observation. It is to be tried, whether it appears he has been uniform in his examinations. If it appears to you that he has varied in any material part, you should reject his evidence altogether. The degree of credit due to it, remains however, with you to judge. It is not for the Court to direct.

The examination of Murphy, the first witness, has been read; and by that, it appears, the examinant swore he received money at several times from all the traversers. In his examination on the table, he acknowledges he never received money but in a single instance, and that no mention was made for what purpose. It remains with you to consider, whether that be a material deviation in his testimony. He also declared in his examination sworn before a magistrate, that he saw the arms distributed. In his examination to-day, he says he did not see them distributed. This is a variance of material consequence.

As to Grimes, the other witness, he being asked, did he recollect, whether in the account he gave of the meeting of the committee and their transactions in his original examinations, he had mentioned Delahoyde or Tiernan to have been present?—As to the traverser Delahoyde, he does not swear; but with respect to Tiernan, he swears expressly that he was not one of them. So that he has contradicted every thing sworn in his first examination respecting Tiernan. The witness said it was impossible for him to have sworn against them and not recollect it; and did positively swear, he had not sworn against them on the present occasion. It is for you, gentlemen, to consider what credit is due to such testimony.

In my apprehension, the evidence of approvers, even when consistent, should be received with great caution. Formerly, the evidence of approvers was not considered sufficient in law, to convict any man. That rule, however, was dangerous, and might sometimes tend to the exclusion of justice, hence a more rational law was afterwards laid down. If any contradiction appears in the testimony of an approver, it goes a great way to depreciate their evidence; especially in a case, where nothing corroborative has been sworn by any untainted evidence.

The traversers in the present case, have produced witnesses whose testimony entirely contradicts the charges of the prosecutors.—Patrick M'Cay has sworn, that he does not know Sheridan's house, and that he is no defender himself. But it is to be observed, that

he is a man charged with as heavy an offence as the traversers. Peter Cahill, in whose house the committee is said to have sat, swears that all Grimes deposed relative to a meeting in his house is absolutely false;—acknowledges that he has seen two of the traversers, Bird and Hamill in his house; —that he has a common room below stairs, in which a person once sat who, he was informed afterwards, was called captain Grimes; but swears he did not know him. James Sheridan swears, the traversers never came to his house about any business to his knowledge.—He says, he has a back room in his house; but in neither of his rooms up stairs, is the furniture such as it has been described.

It is to be observed, that the evidence of these witnesses does entirely discredit the evidence given on behalf of the crown; but being persons implicated in the offence, it is for you to discover and distinguish what respect is due to it.

Three persons have been produced as to the character of Grimes, who all concur in giving him a character contrary to the certificate given by one of the traversers.—It is observed on that certificate by counsel for the traversers, that it is signed by the traverser after three or four others. Another fact has been sworn by Patrick Tiernan to invalidate the testimony of Grimes as to what that witness alleged concerning paying for the coat. Grimes swore, he gave him money in the gaol to buy the coat, and Tiernan swears the contrary, with the particular circumstances. It is for you to discover the degree of credibility due to him.—Upon the whole, if the testimony of the witnesses for the prosecution appears to you worthy of belief, it does prove the charges of the indictment against all the traversers; but it remains with you, gentlemen, after considering all the circumstances as related on both sides, to determine what credit is due to it, and accordingly pronounce your verdict.

The Jury having retired for a few minutes, returned into the Court, and pronounced a verdict of NOT GUILTY, upon all the traversers severally.

Mr. *Curran* then said: As counsel on behalf of the traversers, I move your lordship that bills of indictment for perjury be sent up to the Grand Jury, against the two unfortunate men. It is necessary for the justice of the country, that persons guilty of such enormous offences should be brought to condign punishment.

Court.—The persons concerned have liberty to lodge examinations before a magistrate.

[The following Case being in some degree connected with the foregoing, it is here inserted as a SUPPLEMENT.

On Wednesday, the 23rd of April, 1794, came on also the trial of JAMES SKELTON, Esq. M. D. of the town of Drogheda, on an indictment for having, on the 30th day of January, in the 33d year of his majesty's reign, taken an unlawful oath, to be a true Defender, not being compelled thereto by any necessity.

To this indictment Mr. *Skelton* pleaded the general issue—NOT GUILTY.

No evidence being produced on behalf of the crown,

Mr. *Curran* said: As I understand the learned counsel on behalf of the crown do not mean to bring forward any evidence on the present trial, I must consider that circumstance to be an unanswerable justification of the gentleman accused.

Mr. *M'Cartney.*— My lord, we have reasons for not bringing them forward.

Mr. *Skelton* was then acquitted, and discharged.—*Orig. Ed.*]

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607. Proceedings in the Court of King's-Bench of the Kingdom of Ireland, against WILLIAM JACKSON, Clerk, on an Indictment charging him with High Treason: 34 & 35 GEORGE III. A. D. 1794, 1795.*

Court of King's Bench, Dublin.

Monday, June 2, 1794.

MR. M'NALLY, on the part of the rev. William Jackson, a prisoner in his majesty's gaol of Newgate, moved the Court, that Mr. Keane, the prisoner's agent, might have access to the prisoner, for the purpose of receiving instructions to prepare for his defence. Mr. Jackson was committed upon the 28th of April, 1794, by virtue of a warrant from lord Clonmell, chief justice of the King's-bench, upon a charge of high treason; Mr. Keane was refused access to Mr. Jackson, who was denied the use of pen, ink, and as Mr. Keane swears he is informed believes.

* From the notes of W. Ridgeway, *William Lapp*, and John Schoales, esqrs. Barristers *at Law.*

Mr. *Attorney General.*—I have no objection that every reasonable access should be had to the prisoner; but care must be taken that no improper use be made of it. The constant practice here and in England is, to admit of access at reasonable times; but persons are not to go in or come out without being searched, if necessary, so as that no opportunity be given of conveying instruments that might assist an escape, and also that no communications may be had with the king's enemies, that being the charge against the prisoner, that he communicated with the king's enemies for the purpose of levying war against this kingdom.

The counsel for the prisoner being satisfied with this declaration of Mr. Attorney General, took nothing by the motion.

Monday, 30th June, 1794.

A bill of indictment having been preferred against the rev. William Jackson, before the term grand jury for the city of Dublin, and they having returned it a true bill, Mr. Jackson was this day brought to the bar of the court of King's-bench, and having prayed that counsel might be assigned him, he was desired by the Court to name his counsel; he named John Philpot Curran and George Ponsonby, esqrs. two of his majesty's counsel, who were assigned by the Court to be counsel for the prisoner.

Clerk of the Crown.—William Jackson, hold up your right hand.

Mr. *Jackson* accordingly held up his right hand, and was arraigned upon the following indictment:

County of the City of Dublin, to wit. } "The jurors for our lord the king upon their oath present, that an open and public war on the third day of April, in the thirty-fourth year of the reign of our lord George the third, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth, and long before, and ever since, hitherto by land and by sea, was, and yet is carried on and prosecuted by the persons exercising the powers of government in France against our most serene, illustrious, and excellent prince, our said lord the now king; and that William Jackson, late of the parish of St. Andrew, in the city of Dublin, and county of the said city, Clerk, a subject of our said lord the king, of his kingdom of Ireland, well knowing the premises, but not having the fear of God in his heart, nor weighing the duty of his allegiance, and being moved and seduced by the instigation of the devil, as a false traitor against our said lord the now king, his supreme, true, lawful and undoubted lord, the cordial love and true and due obedience which every true and dutiful subject of our said present sovereign lord the king towards him our said lord the king should bear, wholly withdrawing, and contriving and with all his trength intending the peace and common tranquillity of this kingdom of Ireland to disquiet, molest, and disturb, and the government of our said present sovereign lord the king of this kingdom of Ireland to change, subvert and alter, and our said lord the king from the royal state, title, honour, power, imperial crown, and government of this his kingdom of Ireland to depose and deprive, and our said lord the present king to death and final destruction to bring and put, he the said William Jackson, on the said third day of April, in the said thirty-fourth year of the reign of our said lord the king, and on divers other days and times, as well before as after that day, at the parish of St. Andrew aforesaid, in the city of Dublin aforesaid, and county of the said city, with force and arms falsely, wickedly and traitorously, did compass, imagine and intend the said lord the king, then and there his supreme, true and lawful lord, of and from the royal state, crown, title, power, and government of this his realm of Ireland, to depose and wholly deprive, and the same lord the king to kill and bring and put to death: and that to fulfil, perfect and bring to effect his most evil and wicked treason, and treasonable imaginations and compassings aforesaid, he the said William Jackson, as such false traitor as aforesaid, during the said war between our said lord the king, and the said persons exercising the powers of government in France, to wit, on the third day of April, in the thirty-fourth year aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, with force and arms, falsely, maliciously and traitorously did come to and land in this kingdom of Ireland, that is to say, at Dublin aforesaid, for the purpose of procuring and obtaining information and accounts of, and concerning the situations and dispositions of the subjects of our said lord the king of his kingdom of Ireland, and of sending and causing to be sent such information and accounts to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, with intent to aid and assist the said enemies of our said lord the king, against our said lord the king in the war aforesaid: And that afterwards and during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the twenty-first day of April in the said thirty-fourth year of the reign of our said lord the king, and on divers other days, as well before as after that day, with force and arms, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, the said William Jackson, as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, did, with divers other false traitors, whose names are to the said jurors unknown, falsely, wickedly, and traitorously meet, propose, consult, conspire, confederate and agree to raise, levy and make insurrection,

rebellion, and war within this kingdom of Ireland, against our said lord the king, and to cause, procure, and incite the said persons exercising the powers of government in France, being enemies of our said lord the king as aforesaid, to invade this kingdom of Ireland with ships and armed men, and to carry on the said war against our said lord the king, within this kingdom of Ireland. And that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the said twenty-first day of April, in the thirty-fourth year aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, the said William Jackson, as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly and traitorously did incite, exhort and counsel, and as far as in him lay, endeavour to move and persuade one Theobald Wolfe Tone to travel and go into parts beyond the seas to represent to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, that divers subjects of our said lord the king of his kingdom of Ireland were dissatisfied with the government of our said lord the king of his kingdom of Ireland, and to incite, move, and persuade the said persons exercising the powers of government in France, and being enemies of our said lord the king, to invade the kingdom of Ireland, and to raise and make war therein against our said lord the king, and that during the said war between the said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, and on divers other days as well before as after the said last mentioned day, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, the said William Jackson as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes, with force and arms, falsely, wickedly, and traitorously did consult, combine, conspire, confederate, and agree with divers other persons whose names are to the said jurors unknown, to procure and provide a person to travel and go into parts beyond the seas to represent to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, that divers subjects of our said lord the king of his kingdom of Ireland were dissatisfied with the government of our said lord the king of his kingdom of Ireland, and to incite, move, and persuade the said persons exercising the powers of government in France, and being enemies of our said lord the king to invade this kingdom of Ireland, and to raise and make war therein against our said lord the king: And that during the said war between our said lord the king and the persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, and on divers other days, as well before the said last mentioned day as after, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, the said William Jackson as such false traitor as aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly, and traitorously did meet, consult, combine, conspire, confederate, and agree with divers other persons whose names are to the said jurors unknown; that some person should be sent into France to notify and reveal to the said persons exercising the powers of government in France, then and yet enemies of our said lord the king, the state, circumstances, and condition of this his kingdom of Ireland; and the dispositions and inclinations of our said lord the king's subjects therein, and to treat and negotiate with, and to incite, stir up and encourage the said persons exercising the powers of government in France, then and yet enemies of our said lord the king as aforesaid, to invade this kingdom of Ireland, and to change, alter, and subvert the government of our said lord the king of his said kingdom of Ireland. And that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the said twenty-first day of April, in the thirty-fourth year aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid; he the said William Jackson as such false traitor as aforesaid, in prosecution of his said treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly, and traitorously did compose and write, and cause to be composed and written, a certain letter to be sent to one William Stone in London, in the kingdom of Great Britain; and in and by the said letter the said William Jackson, falsely, wickedly, and traitorously did direct and instruct the said William Stone, to reveal and disclose to the said persons exercising the powers of government in France, and to the people in France, then and yet enemies of our said present lord the king, a scheme and intention of the said William Jackson and other false traitors to our said lord the king, to send a person from this kingdom of Ireland to satisfy and convince the said persons exercising the powers of government in France so being enemies of our said lord the king as aforesaid, of divers of his said majesty's subjects in Ireland being ready to aid and assist the said enemies of our said lord the king, and to treat and negociate with the said persons exercising the powers of government in France, then and yet enemies of our said lord the king for an invasion of the said kingdom of Ireland, but that the private affairs of the person intended to be sent would not permit him to go, and therefore he the said William Jackson would send a statement of the situation and disposition of the inhabitants of the said kingdom of

Ireland, drawn up by a certain person to the jurors unknown in order to be sent and delivered to the said persons exercising the powers of government in France then and yet enemies of our said lord the king: and that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the twenty-fourth day of April, in the thirty-fourth year aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, maliciously, and traitorously did compose and write, and cause to be composed and written, a certain other letter to be sent to the said William Stone in London, in the kingdom of Great Britain, requesting the said William Stone to cause and procure to be notified and declared to a certain person then being in foreign parts beyond the seas, but whose name is to the said jurors unknown, that a statement of the situation and dispositions of divers of the subjects of our said lord the king of his kingdom of Ireland, would be forthwith sent by him the said William Jackson to be communicated to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, to convince them of the readiness of such last mentioned subjects of our said lord the king, to aid and assist the said enemies of our said lord the king in an invasion of this kingdom of Ireland: and that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin, aforesaid, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly and traitorously delivered and caused and procured to be delivered the said letters into the office of the post at Dublin, aforesaid, to be from the said office conveyed and delivered to the said William Stone: and that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of St. Andrew, aforesaid, in the city and county of the city of Dublin, aforesaid, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, maliciously and traitorously did compose and write, and cause and procure to be composed and written, a certain other letter to be sent to Benjamin Beresford, in foreign parts beyond the seas, requesting the said Benjamin Beresford to inform a certain other person then also living in foreign parts beyond the seas, but whose name is to the said jurors unknown, that an account of the situation and dispositions of divers of the subjects of our said lord the king of his kingdom of Ireland, was sent for the said last mentioned person unknown to be communicated to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid: and that afterwards and during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of St. Andrew, aforesaid, in the city and county of the city of Dublin, aforesaid, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly and caused and procured to be delivered the said last mentioned letter into the said office of the post at Dublin, aforesaid, to be from the said office conveyed and delivered to the said Benjamin Beresford: and that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of St. Andrew, aforesaid, in the city and county of the city of Dublin, aforesaid, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, maliciously and traitorously did compose and write, and cause and procure to be composed and written, divers accounts and instructions in writing, to publish and declare to the said persons exercising the powers of government in France, and being enemies of our said lord the king, for the purpose of inciting the said persons to invade this kingdom of Ireland, and to raise and make war therein against our said lord the king, divers matters and things of and concerning the people of this kingdom of Ireland, and amongst other things *that the dissenters were steady republicans, devoted to liberty, and through all the stages of the French revolution had been enthusiastically attached to it; that the peasantry of Ireland manifested a degree of discontent by various insurrections, that there was no where a higher spirit of aristocracy than in all the privileged orders, the clergy and the gentry of Ireland down to the very lowest, to countervail which there appeared a spirit rising in the people which never existed before, but which was spreading most rapidly, as appeared by the defenders, as they were called, and other insurgents; that in Ireland the name of England and her power was universally odious, save with those who had an interest in maintaining it, a body however only formidable by property and situation, but which the first convulsion would level in the dust; that on the contrary the great bulk of the* people (meaning the people of Ireland,) would be ready to throw off the yoke

(meaning the government of our said lord the king in that country) *if they saw any force sufficiently strong to resort to for defence till arrangements could be made, that the government of Ireland was only to be looked upon as a government of force, that the moment a superior force appeared it would tumble at once, as being founded neither in the interests nor in the affections of the people; that there seemed little doubt but an invasion* (meaning an invasion of Ireland, by the said enemies of our said lord the king) *in sufficient force, would be supported by the people;* (meaning the people of Ireland) *that there was scarcely any army in the country,* (meaning in Ireland) *and that the militia,* (meaning the militia of Ireland) *would to a moral certainty refuse to act if they should see such a force as they could look to for support:* and also that the said William Jackson as such false traitor as aforesaid, during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of Saint Andrew aforesaid, in the city and county of the city of Dublin aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with force and arms did falsely, wickedly, and traitorously compose and write, and cause and procure to be composed and written, divers other accounts and instructions in writing of and concerning the people of this kingdom of Ireland, to incite, move, and persuade the said persons exercising the powers of government in France, and being enemies of our said lord the king, as aforesaid, to invade this kingdom of Ireland, and to raise and make war therein, against our said lord the king, all which said accounts and instructions in writing herein before mentioned to have been written and composed and caused and procured to be written and composed by the said William Jackson, he the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, afterwards and during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish of Saint Andrew aforesaid, in the city and county of the city of Dublin aforesaid, with force and arms falsely, wickedly, and traitorously delivered and caused and procured to be delivered into the said office of the post at Dublin aforesaid, to be from thence conveyed into foreign parts beyond the seas, and there, to wit, in foreign parts beyond the seas, to be delivered to certain persons on the behalf and for the use of the said persons exercising the powers of government in France, and enemies of our said lord the king as aforesaid, for the information, encouragement, and assistance of the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid: and that during the said war between our said lord the king and the said persons exercising the powers of government in France, to wit, on the same day and year last aforesaid, at the parish aforesaid, in the city and county of the city of Dublin, the said William Jackson as such false traitor as aforesaid, and in further prosecution of his treason and treasonable purposes aforesaid, with force and arms falsely, wickedly, and traitorously delivered and caused and procured to be delivered into the said office of the post at Dublin aforesaid, to be from thence conveyed into foreign parts beyond the seas and delivered to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, for the purpose of inciting the said persons to invade the kingdom of Ireland, and to raise and make war therein, against our said lord the king, divers other accounts and instructions in writing of and concerning the people of this kingdom of Ireland, whereof he the said William Jackson then and there well knew the contents, purporting and containing therein amongst other things *that the dissenters were steady republicans, devoted to liberty, and through all the stages of the French revolution had been enthusiastically attached to it; that the peasantry of Ireland manifested a degree of discontent by various insurrections, and there was nowhere a higher spirit of aristocracy than in all the privileged orders, the clergy and the gentry of Ireland down to the very lowest, to countervail which there appeared a spirit rising in the people which never existed before, but which was spreading most rapidly as appeared by the Defenders, as they were called, and other insurgents; that in Ireland the name of England and her power was universally odious, save with those who had an interest in maintaining it; a body, however, only formidable from situation and property, but which the first convulsion would level in the dust; that on the contrary, the great bulk of the people* (meaning the people of Ireland) *would be ready to throw off the yoke, if they saw any force sufficiently strong to resort to for defence till arrangements could be made; that the government of Ireland was only to be looked upon as a government of force; that the moment a superior force appeared, it would tumble at once, as being founded neither in the interests nor in the affections of the people; that there seemed little doubt but an invasion* (meaning an invasion of Ireland by the said enemies of our said lord the king) *in sufficient force, would be supported by the people* (meaning the people of Ireland), *that there was scarcely any army in the country* (meaning in Ireland) *and that the militia* (meaning the militia of Ireland) *would to a moral certainty refuse to act if they should see such a force as they could look to for support:* and also that the said William Jackson as such false traitor as aforesaid, during the said war between our said lord the king and the said persons exercising the powers of government in France,

to wit, on the same day and year last aforesaid, at the parish of St. Andrew aforesaid, in the city and county of the city of Dublin aforesaid, in further prosecution of his treason and treasonable purposes aforesaid, with force and arms, falsely, wickedly, and traitorously delivered and caused and procured to be delivered into the said office of the post at Dublin aforesaid, to be from thence carried into foreign parts beyond the seas, and delivered to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, divers other accounts and instructions in writing, of and concerning the people of this kingdom of Ireland, whereof he the said William Jackson then and there well knew the contents, to incite, move, and persuade the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, to invade this kingdom of Ireland, and to raise and make war therein, against our said lord the king, against the duty of the allegiance of him the said William Jackson, against the peace of our said lord the king, his crown and dignity, and contrary to the form of the statute in such case made and provided. And the said jurors for our said sovereign lord the king, upon their oath further present; that an open and public war on the said third day of April, in the thirty-fourth year of the reign of our said sovereign lord George the third, by the grace of God of Great Britain, France and Ireland king, defender of the faith, and so forth, and long before and ever since, hitherto by land and by sea was and yet is carried on and prosecuted by the said persons exercising the powers of government in France, against our most serene, illustrious, and excellent prince, our said lord the now king; and that the said William Jackson, a subject of our said lord the king of his kingdom of Ireland, well knowing the premises, not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved and seduced by the instigation of the devil, as a false traitor against our most serene, illustrious, and excellent prince, George the third, now king of Ireland, and so forth; and contriving and with all his strength intending the peace and common tranquillity of this kingdom of Ireland to disquiet, molest, and disturb, and the government of our said present sovereign lord the king of this kingdom of Ireland, to change, subvert and alter; he the said William Jackson, during the war aforesaid, to wit, on the said third day of April, in the thirty-fourth year aforesaid and on divers other days and times, as well before as after that day, with force and arms at the said parish of St. Andrew in the city of Dublin aforesaid, and county of the said city, unlawfully and traitorously was adhering to, and aiding and comforting the said persons, exercising the powers of government in France, and then being enemies of our said present sovereign lord the king, as aforesaid; that in the prosecution, performance and execution of the said traitorous adhering of the said William Jackson to the said persons exercising the powers of government in France, then being enemies of our said lord the present king afterwards and during the said war between our said lord the king, and the said persons exercising the powers of government in France, to wit, on the said third day of April, in the thirty-fourth year aforesaid, at the parish of St. Andrew aforesaid, in the city and the county of the city of Dublin aforesaid, he the said William Jackson, as such false traitor as aforesaid, with force and arms falsely, maliciously, and traitorously did come to and land in this kingdom of Ireland, that is to say, at Dublin aforesaid, for the purpose of procuring and obtaining information and accounts of and concerning the situation and disposition of the subjects of our said lord the king of his kingdom of Ireland, and of sending and causing to be sent, such information and accounts to the said persons exercising the powers of government in France, and being enemies of our said lord the king as aforesaid, with an intent to aid and assist the said enemies of our said lord the king against our said lord the king in the war aforesaid."

[The indictment then proceeds to enumerate the same overt acts mentioned in support of the first charge; which overt acts are therefore omitted in his part to avoid repetition and prolixity.]

Clerk of the Crown.—How say you, William Jackson, are you guilty of the treason whereof you stand indicted and arraigned, or not?

Mr. *Jackson.*—Not-guilty.

Clerk of the Crown.—Culprit, how will you be tried?

Mr. *Jackson.*—By God and my country.

Clerk of the Crown.—God send you a good deliverance.

Mr. *Attorney General.*—I am now humbly to move your lordships, that a day may be appointed for the trial of the prisoner. If the prisoner be not ready for his trial this term, I have no objection to its being postponed until the next term.

Mr. *Curran.*—I have been assigned by the Court as counsel for the prisoner. It is rather the duty of my client in his present situation, to wait until he is apprised of what the inclination of the Court may be, before he expresses his wish upon the subject.

Earl of *Clonmell* (Lord Chief Justice).—Undoubtedly the first duty of this Court is to dispose of the crown business, which may come before it.

Mr. *Curran.*—If my client is to understand that the inclination of the Court is, to appoint a day for the trial in this term, it will be necessary for me to address a word or two to the Court. I make no difficulty of saying in this case, that being concerned as counsel for a man in a perilous situation, I cannot think

of wasting any claim he may have to indulgence. It is better he should submit to any order made by the Court, than urge any application from himself.

Earl of *Clonmell* (Lord Chief Justice).—I do not exactly see the object of this address.

Mr. *Curran*.—I mean to inquire whether the Court wish to try the prisoner this term.

Earl of *Clonmell* (Lord Chief Justice).—The Court have no wish about it. Their first duty is to go through the business.

Mr. *Attorney General*—I will put an end to this, I move to appoint the first return day in the next term for the trial.

Earl of *Clonmell* (Lord Chief Justice)—The prisoner is in a country where he will have every possible advantage to prepare for his trial.

Friday the 7th of November being appointed for his trial, he was remanded to Newgate without any objection.

Friday, 7th November, 1794.

The Court having sat, Mr. Jackson was put to the bar, and the sheriff of the city of Dublin was ordered to return his *venire*, which he did, and the clerk of the crown called it over.

Mr. *Curran*.—This trial was appointed for this day. It is more becoming not to wait to see whether the counsel for the crown will say any thing as to putting off the trial, but to state how my client is circumstanced. He has been in gaol for many months. He was arraigned last term, when he pleaded, and the Court were pleased to appoint this day for his trial. All the interval he has employed in the most deliberate preparations for his defence. Though a native of this country, his life has been spent out of it. He sent his wife to England to attend upon such witnesses as he thought necessary for the trial. She spent part of the summer in England where an agent was employed, and Mr. Jackson himself sent another upon the same business. These circumstances are ready to be proved by affidavit. Mrs. Jackson remained in England some time, and came back to prepare for the necessary attendance. Some property, which was the joint property of both, has been sold for about one-tenth of its value, to defray the expense of bringing over witnesses, who cannot be compelled to attend by any process of this Court, and therefore their demands must be complied with.

Earl of *Clonmell* (Lord Chief Justice).—The object of your application is, that the prisoner is not ready for his trial.

Mr. *Curran*.—It is: the application could not be made before, because the Court did not sit, and the prisoner had expected that the witnesses would arrive. A considerable sum of money was paid to defray their expenses, and certain matters of record are to be brought upon a security of 500*l*. for their being returned. Mr. Nailor, an English agent, has them in his possession, and he was expected here by this time. He is a material witness, and his arrival with the others was expected: they are not yet arrived. There appeared a paragraph in the English newspapers, that this trial was put off to the 21st inst.:—Mr. Jackson states that his witnesses might be led into error by this publication, which was made without any connivance or privity of his. There is another circumstance: in the last term, the Court assigned the prisoner two counsel; Mr. Ponsonby was one of them; he is in England; his arrival was expected by this time:—he is not yet arrived, and the consequence is, that Mr. Jackson will be deprived of the aid of one of his counsel. As to the comparative aid of others, it is unnecessary to compute it: the Court will feel the weight of the circumstance I have mentioned. The prisoner swears he cannot with safety to his life go to trial without the witnesses; he has done every thing to procure their attendance, and does expect them and his counsel upon any future day to which the Court shall think proper to postpone the trial.

Earl of *Clonmell* (Lord Chief Justice).—In this term?

Mr. *Curran*.—He instructs me to speak with the utmost candour. His wish is to be tried; he means no artificial delay whatever.

Earl of *Clonmell* (Lord Chief Justice).—If this affidavit be not sworn, let it be sworn now; when it is, let it be read.

[Three affidavits were then sworn; one by the prisoner, a second by his wife, a third by his agent, setting forth the endeavours which had been used to procure the attendance of witnesses, as stated by Mr. Curran.]

Earl of *Clonmell* (Lord Chief Justice).—What time do you desire?

Mr. *Curran*.—He would wish to have the trial this term if possible, to avoid expence. The witnesses may be on their way, and if a day be appointed, it is possible they may not be here on that day. Mr. Jackson feels the necessary respect for the court; but he would rather wish to postpone the trial until the next term, than have any day named in this lest there might be a disappointment, in which case, it would be impossible to name another day in the same term, as there would not be time for the jury process. But I will leave it entirely to the court, I press no day. It is the prisoner's wish to be tried, if he can be ready; if the witnesses arrive, it is the wish of his heart to be tried.

Mr. *Jackson*.—My lords, the impression I would wish to leave on this Court is, that notwithstanding four months might appear sufficient for preparation, yet with the utmost exertion, I have not been prepared. Ten days after my trial was postponed, I put matters in arrangement; every exertion was used to bring over the witnesses and documents;

notices were served upon certain persons in England to produce certain documents, or correspondences relative to my conduct:—These have not been brought over, and the agent in England has been so grossly imposed upon, from the idea that the trial was put off, that he wrote to my wife that he would not come over until he heard from me. Why this paragraph was put into the papers in England and copied into the papers in this town, I cannot say. I never felt a greater disappointment in my life than in not being tried this day.

Mr. *Attorney General.*—On the part of the crown it is my duty to yield to every thing, consistent with the administration of justice, not only that the subject may have justice administered to him, but that all mankind may see it is administered fairly. An affidavit has been read, stating some circumstances material to the point. Others have been read, which cannot have any influence whatever. I say this, that they may not weigh with the public mind. It is idle to say that paragraphs in the papers of England or Ireland can have any weight; they might be put in by persons knowing nothing of the matter, which might be the present case; it is impossible any agent could be so ignorant as to be deceived by it.—Another circumstance is the absence of Mr. Ponsonby. The bar of Ireland furnishes able men fully adequate to conduct a trial of this kind:—There are men as able as Mr. Ponsonby, and when I say that, I mean to pay no small compliment to him. The prisoner swears that some documents are necessary to be had, and that witnesses are to be brought over:—Under such circumstances I should not think myself justifiable in resisting the application; therefore I submit to the Court with deference, that the rule should be to postpone the trial; and that there may be no ground for an application of this kind in future, I submit that it would be best to postpone the trial to the next term, that the witnesses both for the crown and the prisoner may attend, and have full notice of the time when they are to attend. As to postponing the trial to a day in this term, and then to have it postponed again, if the witnesses do not attend, it may be done, but it is not regular to make an order upon a contingency of that kind. The first Monday in the next term will be a proper day. I do not find that the prisoner complains, but the world should know, that he is treated with all the indulgence a man in his unfortunate situation can be. He was indicted as soon as possible, and was brought up for trial at a time when the witnesses for the crown were ready; he then applied to postpone his trial.

Mr. *Jackson.*—My lords, may I be admitted to say a word or two? Entirely contrary to what has been complained of by several in my situation in England, I will thus observe, and testify in the face of this Court, and the world at *large, that for a man in my situation,* it is impossible to be treated with more tenderness, humanity, and attention, than I have experienced. Whether the complaints in England be well founded or not, the treatment I have met with is not surprising, because it only proves, what every one knows, that humanity is the characteristic of Ireland.

Earl of *Clonmell* (Lord Chief Justice).—In this case it is unnecessary to show what passes in England, a country as famed for justice, and other great qualifications, as any other country: justice is there administered in such a manner as to exalt it above the other countries of the earth. It is our duty to administer justice in such a way as to give satisfaction to all parties. I am glad to see that the prisoner thinks he is well treated. The Court has been entirely passive upon the subject, forming the rule upon the consent on both sides. At present there appears to be nothing materially different between the gentlemen concerned on both sides. It will be better to appoint a certain day; it may lessen the expense to the prisoner, to give ample and full time to be fairly prepared for the trial of his life, that he may not want any evidence with which the blessings of this constitution can furnish him—that he may come furnished with every possible defence that time and abilities can supply on the one hand;—on the other, judges are to see, that the punishment of flagitious crimes be not trifled with, but that the law may be administered with calmness and vigour. These are my sentiments, and from the opinion I have of my brethren, are their sentiments. To apply them to the present occasion, there is no question to debate upon this application. The most probable way to have an effectual trial will be to appoint the first Monday in the next term. Be it so.

Mr. *Jackson.*—My lords, I have been six months confined in a single room. If I might be permitted occasionally, and that very seldom indeed, with the keeper of the prison, to walk in the yard, early in the morning, I should be glad of it.

Earl of *Clonmell* (Lord Chief Justice).—The Court cannot meddle with that. If you complain of oppression, we will interfere.

The prisoner was then remanded.

Monday, January 26th, 1795.

The prisoner was this day put to the bar, and the clerk of the crown asked him, was he ready for his trial. He said he was.

Mr. *Attorney General.*—My lords, I am on the part of the crown to move the Court to postpone the trial in this case to some day within the term, in such time as may give an opportunity to issue a *venire* with the usual return of fifteen days, which can be upon the 10th of February next. The ground of my application is this, that one of the witnesses is absent and cannot attend this

day. I have an affidavit in my hand, sworn by Mr. Kemmis the crown solicitor, stating, that he used the utmost diligence to bring over the witnesses from England, all of whom, except two, reside in London, and they all attended last term, when at the prisoner's desire the trial was postponed. Mr. Kemmis states by his affidavit, that John Cockayne, a witness, without whose testimony the justice of the case cannot be attained, did write a letter from London, stating that he was in an ill state of health, but would set out on the next day, attended by Mr. Mounsey, another witness: Mr. Kemmis also states that he received another letter from C. Mounsey, dated Holyhead, January 24th instant, mentioning that he and Mr. Cockayne had arrived there, but that the severity of the weather, and the quantity of snow upon the roads prevented them from using more expedition; that Mr. Cockayne was in an ill state of health, that he consulted a surgeon, who advised him not to set out for Dublin. Mr. Kemmis swears that he received these letters by post, that he believes them to be genuine, and the contents of them to be true. Under these circumstances, it cannot be disputed that the trial must be postponed, it will be for the gentlemen concerned for the prisoner to say, whether they would have any thing added to the rule.

[Here the affidavit was read, and it appeared to contain the facts stated by Mr. Attorney General.]

Mr. *Curran*, for the prisoner. It is submitted to the Court, that this affidavit does not lay any ground to warrant your lordships in postponing this trial. There is one fact stated which Mr. Kemmis does not recollect precisely: he was mistaken in saying, that the trial was put off upon the arraignment, at the instance of the prisoner. The arraignment was too late in Trinity term to bring on the trial. In the last term, the trial was postponed at the instance and upon the motion of the prisoner, and in consequence of that, it comes on now, unless it be the pleasure of the Court to postpone it farther. This man has been lying in gaol since the middle of April last, and it is not a matter of course for the crown to postpone a trial, where the party has remained so long in prison, and is ready for his trial. If it were there would be a way of exterminating almost any man in the community, with more certainty than could follow any trial, because trial and conviction can extend only to guilt, but that kind of silent extermination may fall upon the innocent. To postpone the trial at the present time, there ought to be proper *verified matters of fact* laid before the Court. If that rule be a true one, it is impossible to postpone the trial upon this affidavit, because it does not state any verified matter of fact; there is no circumstance stated but upon *the belief* of Mr. Kemmis. *There is no* affidavit by the meanest process-server, that he made any request personally, or that Cockayne made any promise to attend. A letter has been spoken of: is there any affidavit of any man that says he knows the hand-writing of Cockayne, and knows this letter to be his hand-writing; Mr. Kemmis says he received this letter. Does he know the hand-writing? No: he believes it is Cockayne's letter. Does he say why he believes it? Does he state that the letter promises he would attend at any other time? Not a word. It states that he is sick. But there ought to be established facts laid before the Court. Let the gentlemen concerned for the crown make the motion as a matter of course, because they do not wish to go on with the trial, finding it is either impracticable, or nugatory; or let them lay some satisfactory matter for the pur-

. submit that there is nothing to en- them to the order now sought for.

Mr. *Ponsonby* on the same side. My lords, I humbly submit that this affidavit does not state sufficient matter to entitle the crown to put off the trial. The affidavit should state specifically that the person, on account of whose absence the trial cannot go on, was a material witness. The affidavit does not state that positively; Mr. Kemmis only says, *he believes*, and he used these extraordinary words, "that *the justice* of the case cannot be attained without this witness."—What does Mr. Kemmis call the justice of the case?—Hanging my client without the verdict of a jury, or the sentence of your lordships. The affidavit does not state positively, that the witness was material for the prosecution; neither does it state that his attendance is expected, or that there is reasonable ground to believe he will attend at any future day. There is no instance, even in a civil case, where a trial is put off, unless the party swears positively that the witness is material, and that there was reasonable ground to expect his attendance. The letter mentioned in the affidavit does not state, that the witness will come; the certificate of the surgeon does not state, that the indisposition will permit the witness to attend at a future day, nor does the crown solicitor say he has reason to think the witness will attend. Therefore the ingredients, which are thought material in civil cases, are wanting in this case. How much more material are they in a case of treason, and where the party has lain nine months in gaol?—This is a mere imposition upon the simplicity of the crown solicitor.

Mr. *Prime Serjeant*, in reply for the crown. As it strikes me, this affidavit is more full and pregnant with circumstances to lead the discretion of the Court than any I remember. The first position is, that John Cockayne is a material witness, as he believes. for the crown. How is it possible fo man to swear to more than belief in case? it is impossible to conjectur there be any doubt upon the mat

his evidence, your lordships have before you that which will satisfy you whether it be material or not. Upon looking into the informations, you can form a conclusion whether this man's testimony be material or not, at least to put the prisoner upon trial;—the jury will determine whether it be sufficient for conviction.—The next position is, that the justice of the case cannot be attained without the examination of Cockayne, as deponent believes.—Look then to the same document, and see whether the examination of Cockayne be not essentially necessary to the justice of the case. The next fact stated is, that this trial was postponed in Trinity term; it is not pretended that it was postponed at the desire of the crown, nor will I say it was at the desire of the prisoner. It was with the concurrence of the prisoner's counsel; all the witnesses for the crown attended at that time. So it rested until November; then an application was made on the part of the prisoner to postpone the trial. The counsel for the crown did not resist the application, that the prisoner might have an opportunity of vindicating his character upon a fair trial. The trial being appointed for this day, the crown solicitor states, that on the 17th of January inst. he received a letter, which he believes to be genuine, from Mr. Cockayne, stating that he would set out the next day from London for Ireland to give evidence upon this trial. Then the solicitor states, that he received a letter on Saturday, the 24th instant from Mr. Mounsey, who accompanied Cockayne to Holyhead, where the solicitor swears he believes Cockayne now is. The letter mentions that Cockayne had come so far in prosecution of his intention: the letter contains the certificate of the surgeon enclosed, as to his state of health. It is said, there is no affidavit of any process being served. Where a party has given informations, and is bound to prosecute, it is not thought necessary to serve any process to compel his appearance, because he has entered into a recognizance to appear. If there had been no recognizance and the witness lived in Ireland, process might be necessary; but I do not know the effect of any process served upon a witness in England to attend in Ireland: I give no opinion how far such process would be obligatory; but where a party is bound by matter of record, it would be absurd to call upon him by process. The solicitor for the crown says he has used his best endeavours and diligence to have the prisoner tried with all possible expedition. This application is made only in consequence of the absence of Cockayne: if the trial be postponed, the solicitor states he is in hopes Cockayne will attend;—what hopes can be more reasonable where the party has come so far as Holyhead? If the solicitor for the crown had stated his belief without any reason for it, could it be so strong as where he has assigned his reasons?—He swears the witnesses are at Holyhead, as he believes, and that the letters are genuine. If these matters be not sufficient to postpone the trial, I am much mistaken; I have mistaken the discretion of judges.

Earl of *Clonmell* (Lord Chief Justice).—It is impossible to go on with the trial this day. The rule is made with the concurrence of my brethren. This is an application to postpone the trial to the 10th of next month—a day in this term—and see upon what ground it is made. It has been very truly said (and I shall ever hold it as my opinion, and have done so for twenty years: the first time I took it up was upon consideration with chief justice Paterson, when the question was considered by a variety of persons in the case of the White-boys) that it never was of course, and it ought not to be of course to postpone a trial on the part of a prosecutor; and one reason was this, if the prosecutor's witnesses die, what they have said is not lost, having given examination before; if the prisoner's witnesses die, he is undone; and therefore it is not to be considered as a matter of course; but the rule in those cases must be governed by circumstances. See what the circumstances here are:—The trial was first put off not as against the prisoner, but to accommodate him;—at that time, Cockayne, who has sworn material informations, attended; the solicitor for the crown swears, moreover, that he believes Cockayne to be a material witness; he attended as such; he resides in another country; he came over, and entered into a recognizance, in consequence of the informations he had given. In Michaelmas term, the trial was postponed upon application of the prisoner;—upon what ground?—that he wanted a material witness—that circumstances prevented his having his evidence—that he was not prepared.——Now, there is an affidavit made, stating circumstances—what circumstances? That Cockayne, and Mounsey, two witnesses, to prove their sincerity of intention in coming to attend the trial, set out from London, and are at Holyhead; and though the certificate of the surgeon might be stronger, if made upon oath, yet from the letter sworn by the crown solicitor to be genuine, the attendance of the witnesses is expected, if the trial be postponed to the latter end of the term; therefore to hurry on a trial, so serious to the prisoner, and the public, would have the appearance of levity. If the prisoner be not guilty, he will have an opportunity of clearing himself fully; if he be guilty we should not defeat justice; where the crown was ready twice to prosecute, we ought now to postpone it.—Let the trial be postponed to the 10th of February.

Mr. *Ponsonby*, for the prisoner.—If the trial be postponed, the prisoner wishes it may be postponed to the next term. A material witness, who attends for him, is an attorney of the courts at Westminster, and he cannot stay here during the whole term.

Earl of *Clonmell* (Lord Chief Justice).—I think we must yield to the prisoner's application. There is no assurance given to us, positively, that on the 10th of next month there will be a trial, or that the crown can be ready, nor can the circumstances justify such assertion, the absence of the witness being occasioned by sickness. Then it comes to this, the crown is not ready, and it is not stated positively when the prosecutor will be ready.—A witness for the prisoner says that it is indispensably necessary for him to attend at Westminster, and that an absence from the courts there during an entire term, will be at the hazard of ruin to himself and his clients.—What is to be done? It comes to a question of convenience, which is a serious one to individuals, but we cannot balance the expense. We must postpone the trial until the next term.

The trial was accordingly postponed to the second day of Easter term, and the prisoner was remanded to Newgate.

Court of King's Bench.—Thursday, April 23rd, 1795.

PRESENT,

Right hon. the earl of Clonmell, Lord Chief Justice, * hon. Mr. Justice Downes [afterwards Lord Chief Justice of this court]; hon. Mr. Justice Chamberlain.

Counsel for the Crown.—Mr. Attorney General, [the right hon. Arthur Wolfe, afterwards Lord Chief Justice of this court, and viscount Kilwarden]; Mr. Prime Serjeant, [John Toler, afterwards Lord Chief Justice C. B. and lord Norbury]; Mr. Solicitor General, James Fitzgerald, Mr. Frankland, and Mr. Trench.

Agent.—Thomas Kemmis, esq. Crown Solicitor.

Counsel assigned to the Prisoner.—Mr. Curran, [afterwards master of the Rolls]; Mr. Ponsonby, [afterwards Lord Chancellor].

Assistant Counsel.—Mr. R. Guinness, Mr. M'Nally, Mr. Emmet, Mr. Burton, and Mr. Sampson

Agent.—Edward Crookshank Keane, esq.

The prisoner being put to the bar,

Clerk of the Crown.—William Jackson, are you ready for your trial?

Mr. *Jackson.*—Yes.

The sheriff of the city of Dublin was then ordered to return his panel, which he did, and it being called over, fifty-one attended.

Clerk of the Crown.—William Jackson, those good men whom you have last heard called, and whom you now see in the box, are to be sworn upon the trial of your life.—If you have any cause of challenge to them or either of them, you must challenge them as they come to the book, and before they are sworn, otherwise you will be too late: you may challenge twenty peremptorily, and as many more as you can show cause for. Prisoner and prosecutor, look to your challenges.

Sir Francis Hutchinson, bart. challenged peremptorily by the prisoner.

John Claudius Beresford, esq. challenged peremptorily by the prisoner.

John Exshaw, alderman, sworn

Frederick Trench, esq. challenged peremptorily by the prisoner.

John Pentland, merchant, sworn.

Richard Cranfield, merchant, sworn.

William Humfrey, merchant, sworn.

Robert Ashworth, esq challenged peremptorily by the prisoner.

Thomas Kinsley, merchant, challenged peremptorily by the prisoner.

George Cowen, merchant, objected to by the prisoner, as having expressed an opinion upon the subject of the trial.

Earl of *Clonmell.*—Establish your challenge.

Mr. *Curran.*—There is no intention of taking any captious objection; but if this gentleman has declared any sentiment upon the subject of the trial——

Mr. *Cowen.*—I have not expressed any opinion upon the subject of the trial, nor do I know any thing of it.

He was then sworn without any farther objection.

Samuel Middleton, merchant, challenged peremptorily by the prisoner.

Stuckey Simon, esq. sworn.

Robert Walker, merchant, challenged peremptorily by the prisoner.

John Oldham, merchant, objected to by the crown, but the objection being withdrawn, he was sworn.

James Donovan, merchant, sworn.

Alexander Clarke, merchant, put by on the part of the crown.

David Weir, merchant, challenged peremptorily by the prisoner.

John Ward, the elder, merchant, sworn.

Mark Bloxham, merchant, challenged peremptorily by the prisoner

John Murray, merchant, ditto.

John Minchin, merchant, ditto.

William Castles Hollister, merchant, put by on the part of the crown.

John Campbell, merchant, challenged peremptorily by the prisoner.

Alan Foster, merchant, sworn.

John Crosthwaite, merchant, challenged peremptorily by the prisoner.

John Smith, merchant, sworn.

William Edmondston, merchant, put by on the part of the crown.

Benjamin Simpson, merchant, challenged peremptorily by the prisoner.

James Davis, merchant, ditto.

Charles Henry Sirr, esq. ditto.

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* Hon Mr. Justice Boyd was prevented from attending by indisposition.

Thomas White, merchant, put by on the part of the crown.

Hugh Cochran, merchant, challenged peremptorily by the prisoner.

Lewis Hodgson, merchant, sworn.

THE JURY.

John Exshaw,	John Oldham,
John Pentland,	James Donovan,
Richard Cranfield,	John Ward, the elder,
William Humfrey,	Alan Foster,
George Cowen,	John Smith,
Stuckey Simon,	Lewis Hodgson.

The prisoner was then given in charge to the jury by the clerk of the crown, who read the whole indictment.

Mr. *Trench* opened the pleadings.

Mr. *Attorney General.* My lords, and gentlemen of the Jury; In this case the rev. William Jackson, the prisoner at the bar, a clergyman of the church of Ireland, and a native of this kingdom, stands charged with high treason. He is charged with two species of that crime; one, the compassing and imagining the death of the king; the other, that of adhering to the king's enemies,* namely, to the persons executing the powers of government in France, with whom the king was at war. The Court will inform you, gentlemen of the jury, that this indictment is grounded on the statute of 25 Edw. 3, by which, to imagine, compass, and design the death of the king is declared to be high treason.

In this single instance, a crime intended, though not committed, is made by our law punishable with death; on account of the interest which the subjects have in the life of their chief magistrate the king, to compass his death is guarded in this peculiar way. The peace and happiness of society depend on the preservation of his life. But at the same time that the law has thus wisely guarded the person of the king from violence, it has taken care that those who shall be charged with this crime, shall not be easily or lightly found guilty of it. The law has therefore made it necessary that the criminal intention shall be manifested by an overt act, an act openly done and plainly proved, by which the intention of the party to commit that horrid crime shall be made clear and manifest.

On this species of treason I am also to observe to you, that to constitute it, it is not necessary to show that the party accused had an intention actually to put the king to death, or that that was the immediate object. The compassing of the king's death does not import that the person charged intended to put the king to death; but if he intended to commit any act leading directly or in its consequences to the death of the king, it is settled law that such is to be considered as a compassing of his death; as for instance, to conspire to dethrone the king, for as history and experience show, to dethrone the king leads to his death; so a conspiring or design to imprison the king. The distance between the prison of a king and his grave is small indeed. Therefore to support the charge of the first species of treason, viz. compassing the death of the king, fourteen overt acts are stated in the indictment. If any one of those be proved, and it be such as to show an intention of compassing the king's death, you will find the prisoner guilty of that charge. I will not take up your time and that of the Court in enumerating particularly all the several overt acts. I will, however, mention those which appear to me most important. It is charged that the prisoner consulted with several other persons to induce the governing powers in France to invade this kingdom for the purpose of dethroning the king; the consultation of the prisoner with others on the means of effecting such a purpose is an act whence you may collect the preconceived intention of compassing the death of the king; another act charged is, that the prisoner procured a state of the situation of Ireland to be drawn up and put into the post-office to be sent to France to the ruling powers there, to induce them to invade this kingdom, and thereby dethrone the king. Another act charged is, that the prisoner with divers others endeavoured to persuade a person named to go to France, and give intelligence to the ruling powers there, to induce them to invade Ireland, in order to dethrone the king and overturn his government. Another overt act laid in the indictment is, his endeavouring to persuade another person to go with the same view to France. It is likewise laid as an overt act, that he came into this kingdom for the purpose of exciting a rebellion to dethrone the king. Other overt acts are laid in sending several letters to different persons to induce France to invade this kingdom. Now, if as I said before, any one of those facts be proved, the intention of procuring an invasion will be established, whence it follows by a necessary induction of law that the prisoner is guilty of the crime of compassing the king's death.

The other species of treason charged against the prisoner at the bar is that of adhering to the king's enemies. The nature of this species is fully and clearly expressed in the very terms of adhering to the king's enemies. But overt acts must be laid of that also, and in the indictment the same fourteen overt acts are laid as applicable to support this charge as are laid to support the former. It needs no argument to satisfy you, gentlemen of the jury, that if a man endeavours to persuade the king's enemies to invade his dominions, and sends intelligence to them for the purpose of furthering such an attempt, such a man adheres to the enemies of the king.—Such are the crimes charged against the prisoner at the bar. Whether he be

* See 1 East's P. C. p. 62, 78.

guilty of both or either of them it will be for you to determine. You are now about to discharge a sacred and an awful duty. You have on the one hand to discharge your duty to your king and to your country. You are to take care that if the party be really guilty, he be found guilty, to the end that men may be deterred from committing crimes of the last magnitude—crimes tending to destroy the peace and security of society—to wrest from us all that can make life valuable.—On the other hand, you have a duty not less sacred, that of protecting the innocent. However horrid the crime be in its nature, you should not permit yourselves to be hurried away by your feelings or your passions, lightly to find the accused guilty. The more dreadful the crime, the more circumspect and deliberate ought the jury to be. These observations, I am sure, are not necessary to be made to the jury to which I have the honour of addressing myself. I make them rather as a discharge of my public duty, than as feeling them necessary for your instruction.

Having thus stated, as simply and clearly as I am capable, the nature of the crime, it now becomes my province to lay before you the facts which I am instructed will appear in evidence before you. In doing this it will be my duty to state these facts with the utmost plainness, without giving them any colour whatsoever to induce you to lean against the prisoner. I state the facts merely that you may more clearly and readily comprehend the evidence as it will be offered to you. The case itself is plain and simple. It is not a species of treason which is to be collected from doubtful facts or doubtful evidence, or to be collected by inference from a multiplicity of complicated circumstances, but rests on very simple evidence indeed.

The prisoner at the bar is a native of this country.—He had early in life gone to reside in London, where he continued for a number of years, but some time since, the exact period I am not informed of, he went to reside in France. He was there for a considerable time after the revolution took place. In order that you may understand the meaning of some papers that will be laid in evidence before you, it will be necessary to state the connexions and circumstances of several persons, whose names will frequently occur in the course of the trial. In the years 1793 and 1794, there was resident in Paris a gentleman of the name of John Hurford Stone, by birth an Englishman, and engaged in trade in the city of Paris. There was connected with him, whether as assistant or partner I do not exactly know, another gentleman named Benjamin Beresford, who is married to the sister of Archibald Hamilton Rowan, esq. formerly of this country. John Hurford Stone has a brother named William, who in 1793, and the beginning of 1794, was resident in *London*, and sometimes at a small villa called *Oldford, in the neighbourhood* of London. He is in the coal trade, and is, or was at the time of which I am speaking in partnership in a company whose firm is Lawrence and Co. resident in Rutland-place, near Blackfriars-bridge, London. Towards the end of 1793, or beginning of 1794, the prisoner was sent from Paris by the then ruling powers, to London, for the purpose of learning the state of the kingdom of Great Britain, and the disposition of its inhabitants, and how far it would be practicable to invade that country with success; and farther, if he should not find a probability of success in the designs entertained of invading that country, he should pass into Ireland on the like mission. He accordingly set out from Paris, accredited by John H. Stone to his brother William Stone* in London, who had been by letter previously informed of the intention of sending this gentleman into Great Britain. He was also supplied with some letters; we cannot take upon us to say how many, or if more than two, but of two we are possessed, one directed to Mr. Horne Tooke,† the other to a Dr. Crawford of this kingdom. Mr. Jackson arrived in London in January or February, 1794, having passed through Hamburgh and landed at Hull. It appears, that immediately on his arrival he waited on Mr. William Stone, by whom he was kindly received, and with whom he had a confidential intercourse. While he remained in London he endeavoured to procure as accurate a state of England as he could, I mean with respect to the disposition of the people to aid the French if they should make an invasion, and to receive from them the embrace of fraternity. Mr. Jackson found means to procure a state of that country in the respect I mentioned, to be drawn for his information, as appears, by a person of some consideration, and the information which he received, I believe and trust, was well founded; he learned that the people of England were not willing to receive the French, and that if they should come, they would find ninety-nine in one hundred with their hands zealous to rise in arms against them. During his stay in London Mr. Jackson carried on his correspondence to France through Mr. W. Stone. On his arrival in London he renewed an acquaintance which he formerly had with Mr. John Cockayne, an attorney of eminence resident in Lyon's-inn;— he procured this gentleman to direct several letters for him to foreign countries, saying, that having contracted debts during his former residence in England, he did not wish his hand-writing should be seen, lest it might be discovered that he was in England. Mr. Cockayne, without knowing the nature of those letters, did direct them.— There is every reason to apprehend that those

* See the trial of this William Stone for high treason, A. D. 1796, *infrà*.

† See his trial for high treason, p. 1, of this Volume.

letters contained a communication of his transactions in discharge of that treasonable duty on which he had been sent. Not finding that he was likely to succeed in Great Britain, he was desirous to make an experiment in this his native country. During the time of his stay in London he passed by the name of Jackson, his own proper name, assuming however the character of an American merchant. He communicated to Mr. William Stone his intention of coming to Ireland, and desired to have a correspondence with him, and that he, Mr. Stone, should transmit his foreign letters. With this view he furnished Stone with a paper which will be proved to be in his own hand-writing, explaining the manner in which he would have such foreign letters transmitted to his foreign correspondents. This paper will deserve your particular attention, because it will serve clearly to connect many of the circumstances that will be proved, and to confirm and support the other evidence that will be offered. [Here Mr. Attorney General read the paper of directions.]—At the time that this paper was delivered, the prisoner informed William Stone that he should write to him not by his own name, but by that of Thomas Popkin. While this proceeding was going forward, the treasonable object and view of the prisoner was darkly intimated to Mr. Cockayne. He felt, as I believe every gentleman, every man of common sense must have felt in the like circumstances. It immediately occurred to him that the letters which he had directed were treasonable, that they had passed through the post-office and were exposed to detection. He stood astonished and appalled at his situation. There was apparent evidence of treason against himself. Added to his feelings for his own personal safety, he felt the danger the state was exposed to, he determined to prevent the danger impending on himself and his country, and he disclosed to government the whole of what he knew or suspected. Government, thus aware of the dangerous practices that were on foot, did, as was their duty, determine to counteract the schemes of Mr. Jackson, and to bring to justice, if possible, the perpetrators of such horrid crimes. Mr. Cockayne, at the desire of Mr. Pitt, consented to accompany Jackson in order to render abortive his wicked purposes. Towards the end of March, Mr. Jackson set out for Dublin, accompanied by Mr. Cockayne. They arrived the 1st April, 1794: on their arrival they lodged at a house called Hyde's coffee-house, at the corner of Palace-row, and it appears that Mr. Jackson in a day or two after his arrival made an acquaintance, or renewed an old one, with a gentleman of the name of Leonard M'Nally. Mr. M'Nally, merely no doubt from that hospitality in which Irishmen are never deficient, invites the two strangers to dine with him, and as a man of manners always does, he selected an agreeable company to meet them. Mr. Simon Butler,* and a Mr. Lewins were among others present at this entertainment; the conversation was naturally turned, by the gentleman who had come on this kind mission, to the state of the country. Much talk there was about the discontented state of this kingdom, anxiously did he inquire how far the people would be willing to rise, if there should be an invasion by the French. I only mean to say that such was the turn of the conversation introduced by Mr. Jackson. I mean not to charge any man who has not an opportunity of defending himself. Opinions on the subject were delivered by the host and his guests. Mr. Butler held that though there were some discontents in various parts of the country, yet that the generality of the people having property and education were loyal, and had a considerable influence over their tenantry, and that the invaders would be foiled in the attempt. Other gentlemen entertained different opinions. During this conversation something was said of Mr. A. H. Rowan,† then in prison in Newgate for publishing a seditious libel. Mr. Jackson imagining that Mr. Rowan could give him full information on the subject he had so much at heart, expressed a desire to be introduced to his acquaintance. Some difficulty there was both with the friends of Mr. Rowan and others, as to the authority of Mr. Jackson to treat at all on the part of the French government. Mr. Lewins however undertook to introduce the prisoner to Mr. Rowan;‡ and in order to accredit this embassador from France, Jackson delivered the letters which he had brought from Paris to Mr. Tooke and Dr. Crawford, for he had not thought proper to deliver Tooke's letter; why that was not done I am not informed. These letters were not sealed, and the prisoner knew the contents of them. That he did know their contents is demonstrable; if he had not read them he would not have sent them to Mr. Rowan to establish his credit with that gentleman. A meeting on the credit of these letters is had between Mr. Rowan and the prisoner. What passed at their first interview I am not able to inform you; but at it he received from Mr. Rowan the letters which he had sent by Lewins, and about which he had expressed great uneasiness during the time they remained out of his custody. Another meeting appears to have been appointed between them. Mr. Jackson was invited to breakfast at Mr. Rowan's apartment in Newgate to meet a third person—Mr. Cockayne

* See the proceedings against him and Oliver Bond in the House of Peers of Ireland for a Breach of Privilege, inserted in a note to the trial of Bond for High Treason, A. D. 1793, *post*.

† See his trial, *antè*, Vol. 22, p. 1033.

‡ Respecting these proceedings, see Mr. Hamilton Rowan's statement, *antè*, Vol. 22, p. 1186.

accompanied Mr. Jackson—this was about the 25th of April. Jackson was to meet a third person there to concert the means of sending an able and trusty negociator to the French government, by whom, as he expressed it in one of his letters, more could be done in a short time than by a thousand letters. The meeting took place, the persons present were Jackson, Rowan, Cockayne and Mr. Theobald Wolfe Tone. The object of the meeting was, to prevail on Tone to go to France with the view of communicating to the ruling powers, the willingness of this country to rise and overset the government, and to point out the best means of effecting a descent on this kingdom. It was thought that nothing could more effectually tend to attain the object which these conspirators had in view, than to send a man of sense and ability accredited by a person, in their estimation, of such high consequence as Mr. Rowan, to Paris, there to converse with the French ministry, and persuade them of the practicability of their scheme. At this meeting a paper was produced and read, which will be laid before you, drawn up at the desire of Jackson, and importing to be a state of the disposition of the people of Ireland; then it was proposed to send Mr. Tone to France—Jackson endeavoured to persuade him to go—Tone made several objections; he had a wife and three children—a debt was due to him, part of a reward for something which he had done for the Catholics*—this debt would be lost if he should go to France. Rowan encouraged him to go, assuring him his wife and children should be attended to and protected. Tone hesitated—he expressed apprehensions of the reception he should meet at Paris, and of the reward he might receive—he even had fears that he might never return to Ireland—Jackson encourages him, anxiously endeavours to remove his fears and excite his hopes; something he hinted that the Catholic debt would be made good; he assured the hesitating Tone that the French were a noble and generous people, that he might depend on being treated with the utmost liberality, at the same time admitting that he had not authority to offer a specific sum. Mr. Tone at this time was under the necessity of going to the assizes of Drogheda, and after his return he at a second meeting of the same persons altogether declined to undertake the journey to Paris. Another able negociator must be provided. A doctor Reynolds presented himself to the mind of Rowan as a fit person, and a meeting is had at which the doctor is present. The doctor is applied to. He is at first willing to go, but on a little reflection he thinks the expedition rather hazardous. He recollects that he understands not one word of the French language, nor of the manners of those countries through which he was to pass. However the eloquence of Mr. Rowan was exerted, Reynolds yields to his persuasion, the route was settled, but again the doctor reflects, hesitates, and at length determines not to hazard the undertaking.

While these consultations were going forward, Jackson was employed in making communications to his correspondents and principals in France, of what he was doing here, and how far he was likely to attain the object of his wishes. I have stated that he arrived the 1st April; previous to that, government here being informed, by the British minister, of his object, the Irish government did, as they ought, take every possible precaution to come to a knowledge of all the proceedings of this emissary, and with this view being apprized through Mr. Cockayne of the addresses of Jackson's foreign correspondents abroad, gave orders to the post-office, as by law they are warranted and by their duty bound to do, to open letters of so dangerous a tendency. Mr. Jackson, soon after his arrival in Dublin, on the 5th April wrote to Mr. W. Stone of Oldford, announcing to him his arrival in Ireland, apologizing for not writing sooner, telling him he found many kind friends, and desiring him not to make any use of the addresses he had left him, the price and nature of the articles being (as the letter expresses it) entirely changed. You will perceive that terms are made use of strangely and enigmatically, expressions of trade are employed where no trade was, but in truth significant of the political objects on which Jackson was employed. Here you will see by the context what the meaning of the writer was. About this time a new revolution had taken place in Paris, Danton had been assassinated by the opposite party, and this is the change in the articles to which the letter alludes; and this letter is signed Thomas Popkins. To this letter Stone wrote an answer dated 11th April, in which he acknowledges the receipt of it. Jackson wrote a letter dated 24th April to Mr. Beresford at Paris, and procured Cockayne to copy it. This also is signed Thomas Popkins. In it he says, "you are requested to "see Madget directly, and inform him that "this evening the opinions of two eminent "counsel are sent to him;" throughout making use of legal terms, as if he was conducting some law suit. Madget, in this letter, means the marine minister of France. The estate mentioned in the letter is the kingdom of Ireland. There is a *nota bene* at the end of the letter which is nothing to the purpose, only as it serves to add farther authenticity to the letter. Another letter will be laid before you which sets out with the date of 21st April, but which was not closed till 24th April. It is to William Stone and in the prisoner's hand-writing, but the superscription is of Cockayne's writing. He says, "I am "glad the patterns" (meaning letters formerly sent this Stone) "have reached the persons." The outrider mentioned in this letter means

* *See Plowden's Historical Review of the state of Ireland, Vol. II, pp. 389, et seq. note.*

the post-office. In the former letter the opinion to be sent was that of counsel, in a matter of law, in this the opinion is that of a manufacturer in a matter of trade, and yet both letters speak of the same opinion, and the opinion means the state of Ireland which I have before mentioned. Mr. Nicholas in this letter is used to denote the war minister of France, and in some of the letters perhaps signifies France itself. It is plain that the matter which the statement mentioned in this letter was to contain was of the same nature with the paper drawn up in England, for it refers to it, and this was neither a law case nor an opinion on trade, but a political discussion. You will perceive how little able this man was, as I believe any man would be, to carry on a subterfuge of this kind with success. He confounds the terms he uses, he mixes and confuses characters and things, and he shows manifestly that he was any thing but what he pretended to be. In this he says that he should set out for Cork in a few days. Upon the same day Jackson put into the post-office two copies of that state of Ireland called in his letter a state of the case, and which has been four times read to you from the record. I am not at present precisely informed, nor is it indeed material in whose writing those copies are. One of these copies he directed to go by Hamburgh, the other by Amsterdam. One of them is in a cover marked with a large cross on the outside, exactly corresponding with the instructions given to William Stone, put, as I am instructed, on the paper by the prisoner himself; this is enclosed in another cover directed to Monsieur Daudebuscaille, at Amsterdam, and then another cover encloses all, directed to Messrs. Texier, Angely and Massac, at Amsterdam. All the superscriptions are by Cockayne, and on the inside of the first cover are written these words, "remember "me to Laignelot and family," also in Cockayne's hand-writing, but dictated to him, as the superscriptions were, by the prisoner. I shall not take up your time in reading this paper. It is sufficient for me to state that it is a manifest disclosure to the enemy of the supposed state of this country, inviting them to land on its coasts, and pointing out what was fit and necessary to be done by them to effect that design. This evidence applies to both charges, that of compassing the king's death and that of adhering to his enemies, and is an overt act of each treason. The other copy of this paper is enclosed in a cover marked without with a large cross, and that is enclosed in a cover to Monsieur Chapeaurouge, at Hamburgh, and in the first cover are written "remember me to Laignelot and "all friends."—The cover is directed and these words written by Cockayne, by Jackson's direction and in his presence. These superscriptions you will observe, and it demands attention, accord precisely with the addresses left with William Stone by Jackson when he left London. The papers were put into the post-office, and there they were by order of government intercepted. I have omitted to mention that William Stone signed his letters to Jackson, W. Enots, which is Stone reversed, a circumstance of much weight: do innocent merchants engaged in an ordinary mercantile transaction use assumed names? Why, if no treason in the correspondence, does Jackson write himself Popkin and Stone reverse his name?

Mr. Jackson on the 28th of April was arrested by a warrant from my lord chief justice on a charge of high treason. He intended on that day to have set out for Cork, as he had mentioned in one of his letters to Mr. Stone. The objects of his journey to Cork, were first to examine the state of the country, and next to procure some person to supply provisions for the ruling powers in France. He was in bed at the moment of his arrest, and by the bed side stood a table, on which were several papers. These papers were seized, and they will be laid before you, for we wish you to be possessed of every circumstance that can elucidate the subject: among these was found the letter from Stone to Jackson, and also the letter from J. H. Stone in Paris to Tooke, speaking in the strongest terms of the intention of the French to invade this country. There was also found a note from Rowan respecting the disappointment he received from the non-attendance of a third person at one of their meetings, and a note from Tone, excusing himself from his attending. I shall not go more minutely into the nature of the evidence at present. It will appear to you, gentlemen of the jury, that the prisoner came from France to procure intelligence to be conveyed to the enemy, and that he did while here use his utmost exertions to invite and excite the enemy to invade this country. When you shall weigh and put together the circumstances that will be proved, and compare the whole scope of the evidence, you cannot be at a loss to determine what the object of this man's mission was, and perhaps the dark nature of some of these papers will carry a demonstration more striking than plainer terms.

Thus, gentlemen, I have stated the great outlines of this case, having no other view than to render the evidence as it shall be offered, more intelligible. I have studiously avoided all colouring and every thing that can inflame the passions.—I have in acting thus, I hope, discharged the duty I owe at once to my king, my country and the prisoner at the bar, and I now leave the matter on the whole of the evidence to you, being perfectly convinced, gentlemen, that it is your inclination as it is your duty to investigate the charge with the most minute attention, and that you will bring in a verdict founded solely on the evidence, at once remembering the duty that is due to the society in which we live, and to the prisoner upon whose life you are shortly to pronounce that verdict.

The attorney-general sat down, but rose to say that he ought to have mentioned that Stone of Oldford was arrested in London soon after the arrest of Jackson here, and that Jackson's letter of the 5th of April, and the paper of addresses was found among Stone's papers in his house at Oldford.

John Cockayne.—Examined by Mr. *Attorney-General.*

Do you know the prisoner at the bar?—Yes.

How long have you known him?—Ten years and upwards.

Do you know where has his residence been for the last four years?—I *believe* in France.

Your belief is not evidence; did you ever hear him say where he had resided?—I have heard him say that he had resided in France latterly. I have missed him from England two or three years.

Earl of *Clonmell.*—Can you ascertain from information given by the prisoner how long he had lived in France?—I cannot say, I know he went from England upon the duchess of Kingston's* business.

Mr. *Attorney General.*—When did he return last to England?—I cannot tell the very day he returned to England, but it was some time in January or February 1794.

Did he tell you after his return where he had been?—He said he had been in France.

Did he say from whence he had come?—From France.

How long did he remain in England on that occasion?—I should think about two months, rather under than over.

In what part of England do you reside?—I reside in Lyon's Inn.

Your profession?—An attorney.

In what part of England did the prisoner reside?—He had lodgings at the Buffaloe-tavern Bloomsbury square.

Had you any intercourse with him during that time?—Constant.

Had you any reason to know upon what business or object he was engaged during the time of his remaining in London, or what brought him from France?—I cannot particularly mark any period to give a precise answer to that question: if you point out any period of time, I may answer you.

Did he employ you to do any business for him?—I did something for him, in his private, his mercantile affairs.

Court.—What do you mean by his *private* affairs?—I mean money matters: in the capacity of a friend and an attorney.

Mr. *Attorney General.*—When did he leave London?—The latter end of March 1794, I think.

Who accompanied him?—I did.

How did you travel?—We came together I think in the mail-coach.

Whither were you going?—We were destined for Dublin.

Now, sir, what was your inducement to accompany the prisoner?—My inducement was to counteract any scheme or plan that he had in agitation, as I thought he had when I left England, of providing France with necessaries and articles, which were prohibited from being exported thither from this country.

What reason had you to suppose he had such a scheme?—Conversations which I had with him in England.

Court.—What do you mean by *prohibited* articles?—I do not know that I can specify what articles are or are not prohibited, not having looked into the act, but I understand it to mean provisions.

How did you understand that?—By conversations I had with the prisoner.

Mr. *Attorney General.*—Will you mention what those conversations were that you have spoken of?—I should find great difficulty in answering you as to any one conversation; I cannot answer you with precision as to any one of them.

Mr. *Attorney General.*—Mention the general purport of them.

Mr. *Curran.*—With great deference, I conceive that evidence of this kind is not admissible—for a witness to state to the Court what he supposes to be the general purport of a number of conversations, not one of which he declares he can state with any kind of precision. I conceive that if a man is to be affected by any thing that he says, the Court, and the jury are to know what he says; but this kind of inference is not legal evidence, nor can any man be affected by a general conclusion formed by a witness from conversation which the witness does not pretend to state.

Mr. *Attorney General.*—This is new doctrine to me—the witness is going to say what was the general purport of the prisoner's design—(to the witness) you say you came from London accompanying Mr. Jackson, to prevent, if you could, the intention you apprehend he had of sending prohibited articles to France—did you collect that intention from conversations you had with him?—I did.

Mr. *Curran.*—Well, since this evidence is pressed, I must call on the Court to decide.

Earl of *Clonmell.*—He has not yet gone too far; I think he says that he understood from conversations with the prisoner, none of which he can particularly state; this is evidence, but it goes to his credit.

Mr. *Attorney General.*—When did Mr. Jackson arrive in Dublin?—I believe on the 2d or 3d of April.

Where did you lodge?—In Dame-street, at Hyde's coffee house.

Were you invited to dinner any where shortly after your arrival?—Yes, to counsellor M'Nally's

Do you remember who the company were there?—A Mr. Simon Butler, and I think a Mr. Lewins.

Now, are you sure whether Mr. Lewin

* *See her trial, ante*, Vol. 20, p. 355.

there or not?—I am not certain whether he dined, but I am sure he was there in the course of the day—I think.

Did you see Lewins there that day?—If it was not that day I saw him there, I did not see him there at all; but I think I saw him there.

Earl of *Clonmell.*—Recollect yourself—Did you see a man of the name of Lewins there or not? Come to that point?—I think I did, but I cannot positively swear; but I saw him several times.

Is Lewins a man of any profession?—I do not know.

Mr. *Attorney General.*—Who else was there—I do not recollect any others.

What, did you go alone?—No; Mr. Jackson was there.

Did he make any particular inquiries that day? what was the scope of the conversation?—The scope of the conversation was general: the common conversation at dinner; it entered on politics at last.

Do you recollect the particular conversation?—It is very hard for me to answer with the precision with which I ought on oath the particular conversations which took place among a set of men who were, perhaps, drinking. I have not a very retentive memory.

You say it turned on politics—what politics?—The general politics of the day, and also the politics relative to the Irish nation.

Do you recollect what passed relative to the Irish nation? or any part of that conversation as coming from the prisoner?—I should have great difficulty in stating the precise words that Mr. Jackson said, or Mr. M'Nally said, or Mr. Lewins said, or Mr. Butler said, for I cannot say what one said, and what another; but if it is put to me to the best of my recollection what Mr. Jackson said. I will answer.

Mr. *Ponsonby.*—I object to that evidence: the distinction that I make is this; the witness cannot say, that to the best of his recollection Mr. Jackson said so and so; he must swear that he did substantially say so, and then he may speak to the best of his recollection what the words were.

Mr. *Attorney General*—Can you recollect the substance and purport of what Jackson said at that meeting?—I do not think that I can answer that question.

Do you say that you cannot tell the purport of what Mr. Jackson said at that meeting?—I cannot say precisely.

Can you recollect the purport and substance of what Jackson said?—Not of what Mr. Jackson in particular said: I might recollect the general purport of the conversation; but I shall then be in the opinion of the Court how far it affects the prisoner; for I cannot swear what Mr. M'Nally said, or what Mr. Lewins said, or what Mr. Butler said, they were all engaged in the conversation.

You said the conversation touched on the politics of the Irish nation; what politics?

Mr. *Ponsonby.*—I beg the witness may understand from the Court that he must speak positively from his present recollection of the subject of the conversation of the company, and that the prisoner joined in the substance of such conversation, because otherwise it was not the conversation of the prisoner.

Earl of *Clonmell.*—I feel it as you state it—either he must say what it was substantially, or that there was a conversation substantially to this amount.

Mr. *Attorney General.*—You have said Jackson joined in the conversation; in what respect did the conversation relate to Irish politics?—I believe it went to the dissatisfaction of some part of the kingdom to some measures. I am not of this country, my lords, and know but little of its politics; I have never troubled myself about them, till this business brought me among them; I am afraid I shall be found but a bad repeater of them.

What dissatisfactions?—recollect what farther passed?—It went to the dissatisfaction of some part of the kingdom, and — [a pause] I cannot recollect at this moment—my spirits are so agitated at this moment that I cannot recollect. I am very sorry to detain the Court: I have really lost every idea of where I was.

Were any other politics talked of?—I do not believe there were any.

Do you recollect any farther conversation about politics?

Mr. *Curran.*—I object to that question; the witness has already said there was no farther conversation on the subject: the witness is produced on the part of the crown; the answer to the question is simple; either he recollects or he does not; but it is not usual to assist his recollection by summing up what had gone before.

Earl of *Clonmell.*—I see not the difference on what side he was produced; if you rely on the summing up of what he said before, stand upon that.

Mr. *Attorney General.*—Do you recollect any conversation between Mr. Jackson and Mr. Lewins at any time?—At any time? Yes.

Where and when?—At Hyde's coffee house.

In what chamber?—I believe in that where I slept.

Can you recollect what that conversation was?—That was as to Mr. Lewins asking Mr. Jackson for some written documents or authorities, that he might produce them to Mr. Rowan, in order that Mr. Rowan might with confidence talk to Mr. Jackson.

Who is the Mr Rowan you speak of?—Mr. Hamilton Rowan, I think they called him.

Where was he at that time?—In Newgate.

Can you tell whether Mr. Lewins and Mr. Jackson had any conversation respecting Mr. Rowan before?—I cannot say to that.

Did you not say that Mr. Lewins came to ask Jackson had he any written document

that he might produce to Rowan to convince him he might talk with confidence?—I did.

What answer did Jackson give to that request?—I believe he gave him some paper.

Did you see whether he gave any?—I cannot swear that I saw him deliver the papers into his hand.

Did Jackson tell you whether he had delivered them?—He did tell me that he had delivered some papers to Lewins, and that he wished he had them again.

Did he tell you why he wished to have them again?—He said he would not trust them with Lewins if he had them back.

Did he tell you what those papers were?—He did not.

Do you know whether he ever got them back?—I believe he did.

Did he ever tell you whether he did or not?—Not directly in those words.

In what words then?—I can only say I believe he did get them back again, but I cannot swear that Mr. Jackson, said "Mr. Lewins has given me these papers."—I have every reason to believe that he did get them back.

Can you recollect how soon after your arrival this conversation was?—Can you tell me the date of our arrival.

Mr. *Attorney General.*—I am not to tell you any thing.

Witness.—We arrived on the second or third, and I should suppose it was four or five days after, but I cannot speak positive.

Had Jackson any interview with Rowan?—He had.

When had he the first?—Do you ask me in point of date?

Mr. *Attorney General.*—If you recollect how soon after the conversation with Lewins?—I believe a day or two after the conversation with Lewins.

You *believe!*——I may have hurried myself in saying *believe*; I *know* that he had an interview.

Were you present?—Yes.

Had he none previous to that at which you were present?—I believe he had; if that be not evidence, I cannot say more.

Did Jackson say he had an interview?—He told me he had seen Mr. Rowan.

That was before you were present?—It was.

And either a day or two after Lewins called for the papers?—It was.

Did Jackson tell you what passed between him and Rowan at that interview, or any part of it?—He told me he was much satisfied with Mr. Rowan; that his manners were very much those of a gentleman. I recollect nothing more.

Did Jackson tell you whether he was to see Rowan again or not?—He said he was.

Did he tell you when that meeting was to be, and what the object of it was?—I do not think he said what it was—yes—he said it was to breakfast.

not tell you the object?—No, I

Did he tell you who was to be there?—No.

Did he go?—Yes, he went there certainly.

How do you know?—I went with him.

How soon was this after the first meeting?—Within the compass of three or four days, or a week, certainly.

Was there any other person with Rowan when you were there?—I really believe—I can't speak positive, and I'll tell you why—there were two or three meetings, and I can't tell at which: there was a relative of Mr. Rowan, I think his father or father-in-law.

Did that relative continue during the whole time you were there?—No; he went away.

Do you remember whether there was any body else?—I think Mr. Tone was there; I cannot positively swear.

Do you remember what was the subject of the conversation there?—It was on politics.

What politics?—Irish affairs.

In what respect?—A great deal was said about the United Irishmen of which Mr. Rowan was a member; some pamphlets were read, and some other matters talked of between them—and there was a conversation about the dissatisfaction of the people in some part of the kingdom.

Were you present at a meeting with Jackson and Rowan when Tone was present?—I was.

Did you know, previous to going, who was to be there?—I now begin to recollect, but I am not positively certain, Jackson said Tone was to be there.

Did you meet any person there?—I met Mr. Tone there.

Earl of *Clonmell.*—Was that the first meeting or the second?—I am not sure; but at some meeting I met Mr. Tone there.

Can you tell for what purpose Jackson went to meet Tone there, or for what purpose he was there?—Mr. Jackson did not tell me for what purpose he was to be there.

Was there any other person present but Tone, Rowan, Jackson, and you?—No.

Can you tell what was the purport of the conversation?—I shall be very little able to complete an answer to that question, because I did not particularly wish to make myself master of that conversation *in toto.*

Be pleased to inform the Court what you do recollect of that conversation?—There was some paper produced; it was in the hands of Tone, and it was read by him and Rowan.

Earl of *Clonmell.*—Read aloud?—Not so loud that I could understand it.

Mr. *Attorney General.*—Did you see that paper again at any time?—I had it once.

Should you know it again?—I made no mark on it.

Mr. *Attorney General.*—I did not ask you that.

Witness.—If I were to see it, I would make you an answer whether I would know it or not; before that, I cannot give an answ

You read it?—No, never.

What conversation passed at the meeting where Tone was? I do not ask you the particular words?—The conversation among the three was the forming a plan, or talking of a plan, to send somebody to France.

Was any particular person mentioned to go on that errand?—Mr. Tone was asked to go.

Earl of *Clonmell.*—What—to go?—To go.

Mr. *Attorney General.*—For what purpose was he to go?—As I understood——

Did you understand from the conversation for what purpose Tone was to go to France?

Mr. *Curran.*—It is impossible to sustain the question that is put in law—did he *understand*—it is not a legal question, and for one reason as good as a thousand, that it would be impossible to indict a witness for perjury upon such testimony.

Court.—You need not go farther into the objection. [To the witness.] Did you hear the conversation?—Yes.

Did you understand it?—Yes, in part.

How do you mean *in part?*—They were at one corner of the room, and I in another with a book in my hand, and I did not hear enough to state what they said.

Mr. *Attorney General.*—Do you know for what purpose Tone was to go to France?—I cannot say, but from my own conjecture.

Did Jackson ever tell you for what purpose Tone was to go?—Never directly so; but from what I understood and from general conversations, I am well satisfied what the purpose was in my own mind——

Court.—What did he say?—I cannot repeat it.

What was the substantial import?—The substantial import was that he was to go to France with a paper as I understand; those papers I never saw

Did Mr. Tone agree to go?—At one time he said he would, at another time he receded; he gave his reasons for agreeing to go and for receding.

Mr. *Curran.*—Was Mr. Jackson present?—At the reasons that he first gave, Mr. Jackson was not present.

Mr. *Attorney General.*—Where was it?—At Newgate.

Had you a meeting with Tone and Rowan when Jackson was not present?—Yes.

Did you ever hear Tone give any reasons for going or not going when Jackson was present?—Yes, Sir.

Where was that?—At Newgate.

Who was present?—Mr. Rowan, Mr. Tone and I.

Was Jackson present?—I *think* he was. [This evidence was objected to.]

Were you at Rowan's lodgings at Newgate at any other meeting than those you have mentioned?—How many have I mentioned?

Did you ever see any other person besides Tone at Rowan's lodgings in Newgate?—Yes, I saw Dr. Reynolds.

Was Tone present at either of them?—*Once he was.*

How often?—Once, if not twice.

Did you see him there more than once?—I think twice; it is a year ago, and I have had that on my mind since, that has shattered my memory very much.

Was Jackson present at either of those meetings that Reynolds was at?—I do not know how to swear positively—I think he was.

Did you go alone to the meeting?—I can't tell; I was alone more than once at Mr. Rowan's.

I ask you did you go alone to the meeting at which Dr. Reynolds was present?—If I could have answered that question I would have saved you the trouble of repeating it.

What conversation passed between Rowan, Reynolds, and Tone, when you saw them together?

[Counsel for the prisoner objected to this question, Jackson not being proved to have been present.]

Had you any conversation with Jackson respecting Dr. Reynolds?—I had.

What was the substance of it?—The substance of it was, as to his being a proper or an improper person to go to France.

Court.—What did Jackson say on that subject?—Mr. Jackson said he did not so much approve of him as of Mr. Tone.

Mr. *Attorney General.*—Did he tell you why?—I cannot answer that he told me why; the reason why, I thought, I am convinced——

Did Jackson tell you on what errand Reynolds was to have gone?—The same as Tone's.

What was that?—To carry some paper to France.

Court.—How do you know?—Because the paper, whatever it was, was drawn in Newgate while I was there.

Do you know this from your own knowledge, or did Jackson tell you?—I cannot say that he told me so *in hæc verba.*

Can you tell substantially what you heard from the prisoner?—In substance, it was, that he was to go to France with some instructions to the French. It is very difficult to repeat conversations with accuracy; I have heard this in many alternate conversations with Jackson, with Tone, with Reynolds, and with Rowan.

Mr. *Curran.*—My client is to be affected by no conversation that is not sworn to have been in his presence; the witness says there were some conversations at which he was not present, and therefore it is necessary the witness should swear positively that Jackson was present, when any thing respecting those instructions passed.

Witness.—Originally Tone was to have gone, but he left Dublin abruptly without saying whether he would or would not go, and then Mr. Rowan applied to Dr. Reynolds I believe. If I am not point blank in my

answers, you will let me tell why I am not so, for I would not leave the Court under the impression that I would wilfully conceal any thing.

Then Jackson told you that Reynolds was to go to France and take a paper; did you learn from him in conversation what that paper was?—So many conversations we have had, that it draws me into a maze which of them I shall think of. I was many weeks in company with the prisoner, and the subject was talked of repeatedly. I cannot tell the precise words.

You mistake me; I asked you of conversations in general between you and Jackson. Did he ever tell you for what purpose Reynolds was to be sent to France?—To take some written paper with him to the French Convention, I believe; I cannot say positively.

Did Jackson tell you at any time or in any conversation for what purpose Reynolds was to go?—I do not know how to answer, there are so many answers to be given this question.

Earl of *Clonmell*.—Did you draw any inference from these conversations for what purpose he was to be sent?

Mr. *Curran*.—I beg your lordship's pardon; but the witness will conceive that he has a right to give his own opinion in answer to that question.

Earl of *Clonmell*.—Did you understand unequivocally from those conversations what he was to be sent for—did Jackson ever tell you for what purpose, or to whom Reynolds or Tone were to go?—They were to go to France. I cannot tell in what words to put my answer I cannot say to whom they were to go; if I was to say one person I might be wrong, for it was my own understanding of it. I understood from general conversations constantly had, that they were to go with some papers to France. I cannot repeat Jackson's words, my own words will be my understanding of his words.

Mr. *Attorney General*.—The witness said he had already heard so in alternate conversations with Jackson, Tone, &c.

Witness.—I adhere to that still.

Earl of *Clonmell*.—"With instructions for the French"—for what purpose?—I shall there catch up what I said before. I understood they were to have written instructions for the French, but what they were I do not know.

Mr. *Attorney General*.—To what part of France was the messenger to go?—I understood they were to go to Paris.

From whom did you understand that?—From them all

Did either Tone or Reynolds receive any encouragement to go?—Yes.

Either Tone or Reynolds in your presence?—Yes.

By whom?—By the prisoner and Rowan.

What were the encouragements that Jackson held out to Tone?—That he would find the French a generous, and, I think, a brave people; a generous people.

Was there any thing in the conversation that led Jackson to say that?—What brought that speech from Jackson I presume was owing to the difficulties that Tone raised to his going.

What were they?—A wife and family.

Were there any others mentioned?—The loss of opportunities which might very likely arise from his remaining in this kingdom.

Did Jackson give Reynolds encouragement to go, or use any persuasions?—Not much; he did not like him; he would rather have had Tone.

Do you know the hand-writing of the prisoner?—Yes.

Do you know whether he had correspondence while here with persons out of this kingdom?—I do not know what letters he wrote.

Mr. *Attorney General*.—I did not ask you:—did he write letters?—I believe—I know—I remember his writing one.

Was it in his own name, or under another signature?—I cannot tell.

[Here the witness proved Mr. Jackson's hand-writing to the superscription of a letter, dated 5th of April, 1794, and directed to Mr. Stone. He also proved a second paper the paper of addresses marked No. 2) and a third in his (the witness's) hand-writing, dated the 24th of April, 1794, and directed to Benjamin Beresford.]

On what occasion did you write that letter, or by whose directions?—By the prisoner's directions.

Was it your own composition, or a copy?—It was a copy.

From what?—[A long pause.]—From a letter in the hand-writing of the prisoner.

Who gave you that letter?—The prisoner.

Did you take a just copy?—I believe so.

Whose hand-writing is the superscription?—Mine.

What was done with it when you copied it?—It was conveyed to the post-office.

Who sealed it?—The seal is so much defaced that I cannot say.

At what time of the day did you get it to copy?—I believe in the morning.

And did you set down immediately to copy it, or did you make any other use of it?—I do not know whether I sent another copy of it.

That is not the question—did you show it to any person?—If I shewed it to any body it was to Mr. Sackville Hamilton.

Did you show it to him?—I really believe so.

Did you show him any letter?—I think I carried the original of that very letter to him I verily believe I did: if I should swear positively, and that it turns out otherwise, you will say that I have said wrong.

Then can you recollect that you carried any letter to Mr. Hamilton?—I do recollect.

Are you sure of that?—I am.

Did you carry any other letter?—No, and for that reason I think this was the letter.

Court.—In whose hand-writing was the letter you carried Mr. Hamilton?—In the prisoner's.

Did you get the letter back?—Yes.

Did he deliver it immediately, or did you go again for it? I went again for it.

What became of the original afterwards?—The prisoner got it.

Do you know what Mr. Hamilton did with the letter you showed him?—He took a press copy of it—I think I was in the room when he took it.

Did you see him take a press copy of any letter?—I did.

Of what?—Of the original of this letter.

Now did you bring the original of that letter to any body before you returned it to the prisoner?—I carried it back from Mr. Hamilton to the prisoner, and did not shew it to any person in the mean time.

Who put the copy into the post-office?—I don't know—it was written in the presence of the prisoner, and sent to the post-office.

Court.—By whose directions?—By the directions of the prisoner.

[A letter marked B, No. 4, dated 21st and 24th April, 1794, produced.]

In whose hand writing is the superscription?—My own.

By whose direction did you write it?—By the prisoner's.

Was it put into the post-office?—I do not know, and it is necessary I should explain; there were several letters sent by the servants of the coffee-house, and some were put in by myself, and I cannot tell which were which.

Did you put in any letters by the prisoner's directions?—All that I put in were by his directions, but I cannot identify them.

[A letter marked C. No. 5, produced.]

Whose hand-writing is the direction?—mine.

By whose directions did you superscribe that?—By the prisoner's.

Look on that which is inside, was the cover sealed up when you got it, or did you see the paper with the cross on it which is inclosed?—I never saw it before; do not understand me to say that I knew that inclosure was within the cover I directed.

Look at that second cover—whose hand-writing is that?—My hand writing.

[A letter marked D. No. 6, produced.]

Witness.—The superscription of the first outer cover is my hand-writing.

By whose directions?—By the prisoner's

Look on the second cover—whose is the superscription?—Mine.

Whose is the writing *within*?—Remember *me to Laignelot and family?*"—Mine.

By whose direction did you write them?—By the prisoner's

Then the first must have been open when you wrote them?—It was.

Were these done both on the same day or not?—I know I did direct four or five on the same day, but I am not certain whether I wrote these or not.

Did the prisoner ever prevent you from going to the post-office with letters.?—No.

[The paper marked C. No. 5, was produced again, and the writing in the inside cover, the witness acknowledged to be his hand-writing.]

Did you see any letter directed to Horne Tooke?—I did.

[A letter directed to Horne Tooke produced.]

Did you read it?—I did.

Should you know it again?—I should—[here the letter was produced to the witness], I believe that is the same.

Mr. *Ponsonby.*—Are you sure it is the same?—It is very hard to swear it is the same, but I verily believe that is the same.

Cross-examined by Mr. *Curran.*

You have known the prisoner many years?—Yes.

He is a clergyman?—Yes.

An Englishman?—I do not know; I believe he is a native of Ireland. I have always thought him an Irishman.

You do not recollect whether Lewins was present at the first meeting you were at?—I am not certain now.

You had known Mr. M'Nally when he practised at the English bar?—Yes.

And so had Mr. Jackson?—Yes.

He was counsel at lord Hood's election, and you knew him there, did you not?—I believe I saw him on the hustings there, three or four times.

It was in consequence of this acquaintance that he asked you to dinner?—I do not know what his motive was.

You had business to transact here?—I had several things to transact here.

And you applied to Mr. M'Nally?—Yes; he has done some business for me.

Must you not think that your recollection is very untenacious as to what happened a year ago, when you cannot recollect whether Lewins was at that meeting?—I cannot say positively, but I verily believe he was.

You said your memory had been somewhat shattered?—It has been so by this transaction.

You have not stated how?—It grieves my mind more than I can describe, to see that gentleman in that situation: It has made much impression on me of late.

Had you any feelings about yourself?—I ought to have had them; I have had a great deal of uneasiness.

As to personal danger?—Yes; I more

.....n once thought my own person in danger.

Do you consider it out of danger now?—I think so.

But are you sure, or is it only a general notion; what makes you think so?—I do not see any one to offend me.

To *offend* you! Is there no particular fact on which you build a good notion of your security?—No—I do not see any danger in the country now; it is not in that state I expected; it is quite quiet now, and therefore I was not afraid of coming.

Now, did you conceive that the danger I alluded to was from any disturbance in the country?—I did suppose so.

Then you did not think that I alluded to any personal matter of your own?—No.

Did nothing pass in your mind to lead you to think that I glanced at it?—No I feel no such thing.

Do you not know at this moment that you were considered an accomplice in this business?—I considered myself so, more than the officers of the crown did.

Do you not come forward to-day from a pure love of justice?—I come forward with very great reluctance. I am under a very heavy recognizance, which I cannot possibly get over; and it grieves me to appear against a man with whom I have been so intimate.

Did you always freely declare the evidence you would give on this subject when you were interrogated?—I do not know with whom I have communicated in this particular way. Whenever any one asked me a question about it, I gave such answer as at the time occurred to me to be right.

What! were you never examined before?—Yes.

Where?—At the castle.

Did you state your evidence there freely and voluntarily?—Not so voluntarily, very likely, as might have been wished. I gave the evidence and signed the examinations which lord Clonmell prepared from my words.

Did you do that voluntarily?—There was no force used: I wished not to do it.

Was there no menace—no threat made use of?—I believe I hesitated about signing it as much as I could; I believe lord Clonmell said I ought to recollect that I was in their power, as to committing me if I refused to sign it.

Earl of *Clonmell*.—Recollect yourself

Mr. *Curran*.—Do—recollect yourself—and state what was said to you touching the power of committing you?—I hesitated in signing the examination at first, which after I had been sworn by the privy council, lord Clonmell was so good as to modify once or twice, in the way I proposed; still I hesitated on the principle that I was apprehensive I was an accomplice.——I was pressed again and again ———I evaded signing it, and I believe lord Clonmell's patience was in some degree wearied by my delay, and he said, I think, "don't you know that you are in our power."

What! did you conceive the danger that you were threatened with was, that you might be charged yourself with the crime?—I thought so, and I think the attorney general did express his opinion that I was not chargeable with it.

You signed the examination there?—I did not.

Where then?—At lord Clonmell's house.

Earl of *Clonmell*.—Did you sign your examination the day you gave it in?—No.

How long had you to consider of it before it was signed?—I had two or three days to consider it.

Earl of *Clonmell*.—Another thing is of public consequence to be known. Recollect yourself. When you talked of being in any body's power, was it for not signing the examination or being threatened as an accomplice if you did not sign?—For not signing the examination—and I have much thanks to express to your lordship for your humanity in that business.

Mr. *Curran*.—You say you followed Jackson to Ireland, in order to counteract any schemes that he might have relative to sending provisions?—I did; I thought it my duty as a good subject, as having taken the oaths of allegiance three times to the king; and that was my first reason for applying to government in England on the subject.

So your sole reason for undertaking this business, was your having taken the oaths of allegiance?—That was my sole reason for my first application to government in England.

To whom did you apply?—To Mr. Pitt.

Jackson was your client at that time?—And had been so for many years.

And your old friend?—And my old friend.

Added to the duty of your allegiance, was there not some idea of benefit to yourself?—None.

No expectation?—I did not expect any thing, nor do I expect any thing.

There was no promise made of any?—None by Mr. Pitt, or any person, except what I shall now state: what passed between me and Mr. Pitt, I feel it my duty to state, if I am at liberty. I applied to Mr. Pitt by letter, and acquainted him that there was in England this Mr. Jackson, who had come here, I believed——

Sir, I was asking you about a reward.—There was none but this; when I stated the circumstances to Mr. Pitt, I mentioned likewise that Mr. Jackson owed me a considerable sum of money on the balance of an account; that if I interfered, and should be a sufferer thereby, I should think it hard, as to that sum which Jackson owed me.

Court.—To what amount was he your debtor?—About 300*l*.

You mentioned that in your letter to Mr. Pitt?—No; in a conversation.

The amount I mean?—Yes; Mr. Pitt. I believe, made answer, "You must n[o] a loser."

Mr. *Curran.*—What was the sum you told Mr. Pitt that he owed you?—About 300*l.*

By virtue of your oath, was that the sum you mentioned?—I think so; the sum due to me was between 250*l.* and 300*l.*

Did you never tell any body that you named 600*l.* to Mr. Pitt as the debt?—Never to my knowledge.

So you then came over to Ireland with Jackson?—Yes.

You did not understand that you were to be paid this debt, in case you survived Jackson as a loyal subject?—By no means as you put it.

Yet that was a very likely way to put it out of danger?—I did not think Mr. Jackson would ever be in the situation he is, or that I would ever be brought here as an evidence.

You are a practising attorney in England?—Yes.

You expected no reward for your interfering in this matter?—I expected to be paid my expenses in coming over here, as I would be paid in any other matter whatever.

So your evidence is, that you thought your old friend and client was going to do wrong, and you left your ordinary business in England to come here to be a spy upon him for the ordinary expenses of any other witness?—Yes, Sir.

Did you ever obtain a pardon?—Yes.

Of what?—Of all treasons and misprisions of treasons committed in Ireland.

Did you ever get a pardon for any treasons committed in England?—No.

Were you originally a professional man?—I never followed any other business.

Did your pardon go to any conviction for perjury?—No; I believe not—I forgot, or I would have put it in my pocket.

Were you ever tried for perjury?—I was.

Perjury committed in what?—In an affidavit that I swore.

Court.—When were you tried?—In the year 1793.

Now, by virtue of the oath you have taken, did you ever tell any body that that affidavit was in fact false?—I must apply to the Court, whether I ought to answer that question?

The question is this, you have been indicted and tried for perjury—now I ask, by virtue of your oath, did you confess since the trial, that you were guilty of that offence?

Court.—You were acquitted?—Yes, and I hope honourably.

Mr. *Curran.*—Is that your name? [shows a paper.]—Yes.

You say you hope you were acquitted honourably?—I do say so, and I hope I was.

Now, I ask you, by virtue of your oath, did you mention to any person that that affidavit was in fact false?—I do not know how to answer that [a laugh] it is not laughing matter—I do not know how to answer it!

Why do you not know?—I have been acquitted on that affidavit, and as honourably as any man could be,

Did you say it was false?—My lords, I think it will be right for me to state some of the particulars of that indictment.

Mr. *Curran.*—Let him answer my question.

Earl of *Clonmell.*—I think he has a right to open the way for his answer by any explanations—Take your course, Sir.

Witness. The indictment for perjury against me was, because I swore that I attended at the Prothonotary's office in the Temple from one hour to another, it was in an action brought by an attorney of the name of Fletcher, against a client of mine; he could not support the action, and there was a summons to tax the costs; there was some dispute as to my charge for attendance.—I swore—I had attended at the Prothonotary's office from six till seven on some business; the business was done in fact on the next day that my attendance was made; and the perjury was neither wilful nor corrupt; it was that I could not prove my attendance the complete hour; but the Court on hearing that explanation, and seeing that I could gain nothing by it, directed my acquittal, and the jury acquitted. There is a gentleman of high honour come here from England to vindicate me, and I hope the Court will hear him.

Mr. *Curran.*—Do you know Mr. Nailor?—Yes.

Did you ever tell him that that affidavit was false in fact?—I have already stated to the Court how far it was not true. I incautiously swore that I attended an hour. I could not prove the attendance for the whole hour; the business being done the next day, as completely as if the attendance had taken place, and being no advantage to me, or disadvantage to any body else, I was acquitted.

I ask you again, did you tell Nailor that the affidavit was not true?—I dare say I did, so far as I say now: I always admitted it, and though I might have made two fatal objections to the indictment, I would not suffer my counsel to take advantage of them, because I was resolved to be acquitted or found guilty on the merits; there was a judgment stated, and they did not produce it; Mr. Garrow, who was my counsel, immediately said it was fatal, and so Mr. Mainwaring, the chairman, said, but I would not take advantage of it.

Had you ever any promise of reward from Mr. Pitt?—None, but what I mentioned.

Did you state to any one that you had?—No.

Did you state to Mr. Nailor that you had?—No.

Did you tell Nailor that you had told Mr. Pitt your debt was 600*l.*?—No, I would scorn it.

You would scorn either to come, or to stay on any pecuniary motive?—I would; and I call this the severest day to my feelings that I ever saw.

As to that debt of Jackson's—did you think he was likely to pay it?—I did.

Earl of Clonmell.—Had you had any quarrel

with the attorney who prosecuted that indictment?—No, he ran away a little afterwards, with one of the witnesses.

Mr. *Curran*.—Do you know of any of the letters you put into the office?—If you call for any one letter, I may answer you.

Some of the letters you put into the office had one or two envelopes; did you know their contents?—No.

Nor the persons to whom they were addressed?—No.

Did you know that there were any orders at the post office to intercept those letters?—I do not know, but I believe there were orders to intercept any letters that should be written by Jackson.

Earl of *Clonmell*.—How soon did you hear of that?—As soon as I came here.

Mr. *Curran*. You knew that, before you delivered any letters into the post office?—Yes.

Did you know it before you delivered that letter marked D?—I do not know that I did deliver that letter.

Any that you did deliver, you knew would be intercepted?—Yes.

And as a good subject you put them in with intention that they should be intercepted?—Yes.

Then you did not put them in with any design that they should go abroad at all?—I do not know what became of them afterwards.

But you intended they should not go abroad?—I do not know how the post-office disposed of them; I do not know that I had made up my mind at all; I knew they would be intercepted—I could not do it with that intention.

Then you did not intend that they should go abroad to the king's enemies?—Certainly not: I took care to prevent it as much as possible.

Nor that any encouragement should be given to the king's enemies?—Certainly not.

Nor that information should be given to the enemy?—Certainly not.

Nor that war should be levied against the king in this kingdom?—Certainly not.

You said that you went sometimes to Mr. Rowan by yourself?—I did.

Why by yourself?—By the direction of Mr. Jackson.

Earl of *Clonmell*.—Did Jackson know his letters were to be intercepted?—No, I believe not.

One of the Jury.—Was your sole business in coming to Ireland to counteract the designs of Jackson?—I had some business of my own to transact in Ireland, but that was my sole reason in accompanying Jackson.

Juror.—How comes it then that you have given so very poor an account of him and of the different transactions?—I have given the best account I could. I gave government as much information as I could with regard to *intercepting the letters*, and did not expect to *be examined as a witness*.

Sackville Hamilton, esq.—Examined by the *Prime Serjeant*.

Were you in any office under government in 1794?—I was under secretary to the lord lieutenant for the civil department in the beginning of that year. I am not now in any public situation

Do you know Mr. Cockayne?—Yes. He brought me a letter of introduction from Mr. Nepean the under secretary in England.

Did he speak to you about any letters?—On the 25th April, the day after the letters were intercepted, he asked me if they had been intercepted.

Did he show you any paper?—He showed me a paper purporting to be an original letter.

When he gave you that paper, what did you do with it?—I took a press copy of it from a rolling press which lay in the room.

Have you that press copy?—Yes; It is not legible throughout.

Here Mr. Curran objected that no part of the paper could be read, it not being legible throughout, which point was conceded.

Isaac De Joncourt.—Examined by Mr. *Solicitor General*.

In what employment are you?—In the post-office.

Have you access to the letters in the office?—I have.

What is your department there?—I am deputy comptroller.

Did you ever see that paper—No. 3?—Yes. I found it in the office the night of 24th April.

What induced you to take notice of it?—I was ordered to have attention to letters of that address.

Court.—You found it in the usual place where letters are deposited that are intended to be conveyed?—I had.

Your orders were from government?—They were.

What were your directions?—To open all letters directed to Mr. Ben. Beresford. I had also orders to open several others.

Did you ever see that paper?—No. 4.—Yes.—It is directed to Lawrence and Co.

Had you orders to open letters to that address?—I did.

Was there any enclosure in it?—There was this directed to Mr. Stone. I also stopped this letter (No. 5,) directed to Texier, Augely and Massac, at Amsterdam. There is an enclosure in that to Monsieur Daudebuscaille and Co. No. 6. directed to Monsieur Chapeaurouge, at Hamburgh. There is a sealed enclosure in it with a cross on the back of it.

Where did you find these letters?—I found them sealed in the ordinary course in the same office.

Did you find them all the same day?—on the 24th April.

What did you with them?—I gave Mr. Hamilton.

[Here the Clerk of the Crown read the papers marked A, and B, as follows:—]

(A.)

A Monsieur Beresford, chez Bourcard and Co. Basle, Switzerland.

Dublin, 24th April, 1794.

Sir;—You are requested to see Mr. Madgett directly, and inform him that this evening two papers containing the opinion of the first counsel in this kingdom relative to his family lawsuit are sent off to him by the post. Mr. Madgett's friend has been wholly occupied since his arrival here in obtaining those opinions, attending different consultations and collecting what is now sent as a real case in point. Your brother-in-law with whom the friend of Mr. Madgett here had frequent conferences, approves the opinions as containing the opinions of all good and honest lawyers on the subject. Madgett may therefore proceed for the recovery of his family fortune by hostile or pacific means as he and his friends think proper. I am, Sir, your humble servant. THOMAS POPKIN.

N. B. Your brother-in-law has written to your wife in order to find out the sex of your child.—I am told that it is a very fine boy, the picture of his father, sound in every part, except the brain.

(B.)

Messrs. Lawrence and Co. at their Coal Wharf, Rutland Place, near Blackfriars Bridge, London, enclosing a letter directed to Mr. Stone.

Dublin, 21st April, 1794.

Dear Sir;—Yesterday your letters were delivered to me, I am glad to find that the patterns I sent have reached the persons for whom they were intended; as from the silence of the parties I concluded that the outriders had neglected the delivery of them. I do not see any thing in the late change of fashions which alters my opinion of the stability of the new institution, particularly as the principal persons who superintended it, I never have been able to detect in the slightest deviation from the line of consistency. The rest have at all times been suspected of sinister motives and tergiversation.

The state of manufactures in England which your friend drew out, and which you so obligingly gave, is very just, as far as it related to England; but the principles of the people, with regard to trade, their opinion as to a change, to be brought about by industry and co-operating exertion are so totally different, as to throw all comparison out of the question. I am promised by a very eminent and sensible manufacturer a statement of the manufacturing branches here which will gratify you.

I shall obey the instructions of your sister-in-law by not writing to her, which does not however preclude me from requesting, that when you write you will remember me in the most affectionate manner to her and Mr. Nicholas. Let them know where I am, and that I am doing every thing in my power to to serve M. Nicholas, and give him satisfaction in bringing his affairs to the issue he wishes. His friends here have it in agitation to send a person, on whom his family and he can depend, to him with copies of such covenants and leases, as will show the readiness of his sister-in-law here to come immediately to terms with him; and I shall advise a junction of interest, rather than a tedious chancery suit. I wish you would copy this part of my letter and send it to him; a few days will decide whether the person goes or not; if he should, he will go from me and the family here with full power to treat with Mr. Nicholas, finally settle terms, and thus put an end to enmity and litigation. I am sure the medium of a third person is all that is wanting to bring the parties perfectly to accord. The sister-in-law is admirably disposed to a reconciliation. I hope this will be effected, as one interview is better than a thousand letters. If the person should go, Mr. Nicholas must receive him as he deserves, and treat him as he will merit. I had written the above during the negotiation with a person to go to Mr. Nicholas. He has, this morning, the 24th of April, decided that his private affairs will not permit him. I shall therefore send a statement of the family expectations and situation here drawn up by as eminent a pleader as the gentleman who composed the paper in England.

I shall set out for Cork in a day or two, from which place you shall hear from me; and should you receive any intelligence from or of our friends, I intreat you to communicate it to me under cover to John Cockayne, esq. to be left at the post-office, Cork. I wish you would write the first post day to your sister-in-law, and desire her to inform Mr. Nicholas, that to-morrow I send off two letters for him from his friends here, containing opinions thoroughly considered and well digested by the first counsel here; as such he may show them, and the family may act accordingly. As my time has been wholly employed in collecting them, and as they came from the first and most enlightened sources, let your sister-in-law desire Mr. Nicholas to look out for them as matters of consequence: they contain the real state of the case.

I sincerely wish you happiness, and that of your family, and am truly, your's.

THOMAS POPKINS.

Do not fail to communicate to Mr. Nicholas by the means of your sister-in-law what I have written.

Thomas M'Lean. — Examined by Mr. *Frankland.*

What is your business?—I am one of his majesty's messengers.

Where do you reside?—In London. [A paper was then produced to him.]

Did you find that any where?—Yes, in the possession of William Stone, of Oldford in Middlesex.

On what occasion.—I was sent with Lauzun, another messenger, to take him into custody, and we found it in a drawer in his room at his house at Oldford.

Cross-examined by Mr. *Ponsonby*.

Did you find that letter in Ireland?—No: it was found at Oldford, in England.

[This letter, No. 2, was then offered to be read.]

Mr. *Ponsonby*.—I object to this letter being read in evidence, because it was not found in the prisoner's custody; because it was not found in the county in which the treason is laid in the indictment. But it is found in another kingdom, and therefore cannot be read here. In Hensey's case,* lord Mansfield said, "It is certain that some one overt act must be proved in the county, where the indictment is laid: indeed if any one be so proved *in* that county, it will let in the proof of others in other counties."—But it is not asserted, nor can it be supported, that papers found in another kingdom can be read.

Earl of *Clonmell*.—We think they offer it too soon:—they must prove their overt acts, and then read this paper by way of aggravation.

Mr. *Frankland*.—We offer this paper in evidence in order to confirm the other evidence we have offered, and mean to give, to establish the overt acts.—Here is a paper in the hand-writing of the prisoner, and it cannot be contended that papers in his hand-writing are not admissible.

Earl of *Clonmell*. — Suppose a letter had gone to France, to which place it had been directed, and was found there, could it not be read here?—beyond a doubt; nothing is more certain than that *scribere est agere* in treason.

Mr. *Ponsonby*.—My lords, that rule is to be taken with restrictions, and never was laid down absolutely but in Algernon Sidney's case, † whose attainder was reversed by act of parliament; and Judge Foster ‡ says, the rule is true with proper limitations, and from his observations the rule does not apply in this case.

Earl of *Clonmell*.—What use do the counsel for the crown make of this paper.

Mr. *Attorney General*.—My lords, the overt act laid is, that the prisoner encouraged the enemies of the king, and adhered to them, and that he compassed the death of the king. Then the proof to establish the charge is this, that two papers were sent, directed in the terms, and enclosed in the envelope your lordships have seen. If we shall prove that these letters were sent to the post office for the purpose attributed to them, then the fact will be established. We have proved them to have been written by Cockayne under the directions of the prisoner; that they were addressed to persons at Amsterdam and Hamburgh. In order to give farther scope and effect to that evidence, and to prove that those letters were intended to be sent abroad, we offer another paper in evidence to shew, that Jackson, having a correspondence with persons abroad, did send this letter to Stone in England (with whom we have proved he had also a correspondence) informing him of his arrival in Ireland, and stating in another, that the goods and wares were arrived, shewing that Stone was the medium through which the correspondence passed. We do not mean to give this letter as a substantive evidence standing alone by itself, but going with the others in support of the charge. With regard to the rule of evidence, papers in the prisoner's hand-writing are not to be disputed. If it were necessary that they should be found upon him, all the letters stopped in the post-office, upon which persons have been hanged, were improperly received. The distinction is, that if the paper be not in the party's hand writing, it must be found in his possession to connect it with his intention. This paper is not offered as evidence of an overt act, but as evidence coming from the party accused, and offered to be used concurrent with other pieces of evidence to support the overt act, and when it shall be read, we shall be at liberty still farther to confirm them all; and therefore unless some case be cited, which we are not apprized of, upon the argument, and principle, this evidence ought to be received and the paper read.

Mr. *Ponsonby*.—My lords, I submit, that this paper should not be read. This, like every other thing offered in evidence, is legal evidence, or it is not;—there is no such thing in offering evidence to a court, as saying, it is part of the evidence to prove the overt act, to go connected with others, so as to make all together legal evidence. But it must be legal in the first instance. If the gentlemen are to establish the overt acts by nine pieces of evidence, every one of them ought to be admissible evidence in point of law, because after the nine are received, they are not to say, that all of them taken together will make legal evidence. This paper is not proved to have been published by the prisoner, neither was it within the kingdom of Ireland, much less in the county where the prisoner is indicted.* See what the distinction was in lord Preston's case. † He and two others had procured a smack to carry them away; their papers were

* *Antè* Vol. 19, p. 1345, and 1 Bur. 647.
† *Antè, Vol. 9, p. 817.*
‡ *Crown Law 198.*

* As to this, see 1 East's P. C. 102, 104, 125.
† Antè, Vol. 12, pp. 796, et seq.

seized; among the papers was found a scheme to lay before the king of France. It was insisted, that no overt act was proved, but his taking boat in Middlesex; the papers were not seized in Middlesex, and were therefore not sufficient to prove any overt act in that county.

Mr. Justice *Downes.*—Lord Preston was taken in Kent; the paper was found in Kent; he was tried in Middlesex, and the overt act was laid there; the Court did not stop evidence arising in Kent from being given in Middlesex. He took boat in Middlesex, and that was connected with the transaction in Kent.

Mr. *Ponsonby.*—I submit that the Court did establish the point I contend for, because it was from the circumstance of his taking boat in Middlesex that made it competent to the crown to produce evidence of papers found in Kent.—The Court excluded every thing done in Kent, and said, that his having the papers found upon him in Middlesex, and taking boat there, justified the admission of the evidence.

Mr. *Sol. General.*—There is nothing in the report to show that the papers were in his possession, when he took boat in Middlesex.

Earl of *Clonmell.*—See what the evidence is. Assimilate it to the king *v.* Hensey. This is either introductory evidence, or corroborative.—Introductory of what?—to evidence of one of the overt acts laid in the indictment—applicable either to the charge of adhering to the king's enemies, or compassing the king's death. How then does it come before the Court?—The overt act is, that this man gave information by letter to the king's enemies to invade this country; they prove a letter from him to a correspondent in a masked language, as they say; the prisoner may explain it, and show that a real transaction subsisted. This letter is to show an intercourse and correspondence between Stone and the prisoner at the bar. A letter has been proved in the same sort of language, all in the hand-writing of the prisoner, with certain marks and cyphers, explanatory of what was the intercourse between them.—This is introductory of evidence bearing upon the charge in the indictment. Can it be denied to be the hand-writing of the prisoner, or that it was directed by him? I know not what the contents of it are. But it is a paper in the hand-writing of the prisoner, and found in the possession of his correspondent, to whom he wrote.

Mr. *Ponsonby.*—I am sensible of the observations of the Court. But, my lords, this is a mere unpublished paper, unconnected with any circumstance to give it authenticity.—No act appears to have been done; and with regard to papers written, they are only to go in evidence where the rule can apply of *scribere est agere*, where any thing has been done to carry it into effect. But here it is found in the possession of a third person, and there is no evidence to show how he came by it.

Mr. Justice *Downes.*—I do not see a necessity for adding a word to what my lord Clonmell has said. This evidence is introductory, and it is also corroborative of what Cockayne said. I do not feel the objection as having any weight, that it is out of the county, or in another kingdom. It is not to prove the overt act itself that this letter is offered: the overt act must be proved in the county; but that being done evidence in other counties may be admitted, otherwise in lord Preston's case, they would have excluded every thing but what could have been proved in Middlesex.

Mr. Justice *Chamberlaine.*—I do not consider the evidence now offered, as evidence of an overt act, but explanatory of that which proves the overt act. Two papers have been proved, and this is produced to show, *quo animo*, the former were written. They are marked with a cross, and other emblems, and this letter is offered to show the prisoner's intention in sending those others. To say, that letters or papers found in one place to explain the intention of the act done in another, could not be admitted, would be dangerous. Lord Preston's case is a strong one, because there the evidence found in Kent was admitted to show *quo animo* he took boat in Middlesex. This paper is in the hand-writing of the prisoner, and the only question is, whether it may not explain the intention of his conduct in Ireland.

[Here was read the paper, No. 2.]

A Cross ⋊

To Monsieur Daudebuscaille

[The outward cover.]

To Messrs. Texier, Angely, et Massac
à Amsterdam.

[The inside cover.]

A Cross ⋊

[Outward cover.]

To Mr. Chapeaurouge,
Merchant,
Hamburgh.

[To each a recommendation to forward the inclosed.]

Edward Lawton.—Examined by Mr. *Frankland.*

Do you hold any employment?—I am one of his majesty's messengers.

Did you ever see that paper?—[showing him a letter, No. 1.]—Yes, I found it in the apartment of William Stone, at Oldford.

[Here read the paper No. 1.]

To Mr. William Stone, London.

Dublin, 5th April, 1794.

Dear Sir;—Owing to a variety of incidents which I will explain when I have the pleasu

of seeing you, I have been prevented writing until the present moment. Some very excellent friends to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service—and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions: accepting, as I do, the will for the act, they have a claim on my gratitude.

I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed.

You will have the goodness to enclose your letter or letters to me, under a cover thus directed—John Cockayne, esq.; Hyde's Coffee-house, Dame-street, Dublin.

Pray write immediately.

I request, my dear sir, that you will dedicate an instant, on the return of the post, in acknowledging the receipt of this letter; and if you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon enclose them to me, as the assizes at Cork are about to commence.

In the course of a very few days I will give you some information respecting the bills which you commissioned me to present.

I hope your lady enjoys better health, and with very sincere wishes for her and your happiness, I request you to believe me your real friend, THOMAS POPKINS.

Oliver Carlton.—Examined by the *Attorney General.*

Do you know the prisoner?—Yes. I assisted in arresting him on a warrant from lord Clonmell for high treason.

Where did you arrest him?—At Hyde's Coffee-house.

In what part of the house?—Up two pair of stairs, back, in bed.

At what time?—Ten in the morning, 28th April.

Did you find any papers in the room?—I found several papers on a table, and others in a trunk in the room where he slept.

[The papers marked E, F, G, L, N, O, shown to the witness.]

Do you know these papers?—Yes; I found these on Mr. Jackson's table.

Cross-examined by Mr. *Ponsonby.*

Was the door shut?—It was shut, but not locked.

Mr. *Frankland.*—We will prove a letter written by Mr. Stone, addressed to Mr. Thomas Popkins.

Mr. *Curran.*—I object to this evidence; my doubt is as to reading a letter, merely because it was found in the chamber where Mr. Jackson was in bed, it is not in the hand-writing of Mr. Jackson.

Mr. Prime Serjeant.—This letter was found on Mr. Jackson's table, and it is proved that he was the Mr. Thomas Popkins directed to.

Mr. *Attorney General.*—Besides, the letter to which this was an answer, was found on Stone.

Court.—You need not trouble yourself, it is good evidence.

A Juror.—Was there another bed in the room?

Witness.—No.

Mr. *Jackson.*—Sir, there was another bed in the room.

Witness.—If there was, I did not observe it.

Mr. *Attorney General.*—Did the prisoner at the bar say any thing about those papers?—He was very much agitated; he jumped out of bed, and ran about the room in great confusion: he said he did not care about any but one particular paper; and he asked me what right I had to take his papers; I told him my authority; that I had a judge's warrant.

Mr. *Jackson.*—I beg leave to ask this question. In the first place, the witness is wrong as to the fact of the bed. Now let me ask you, did I, or did I not, when you were taking the papers, voluntarily say, "There is the key of my portmanteau—take it?"—You did.

Mr. *Jackson.*—You regarded two closets, and said you would have them open?—Yes.

Mr. *Jackson.*—And I opened them for you?—Yes.

Mr. *Attorney General.*—Were any of the papers you have now seen, in that trunk that you have mentioned?—No; the papers there were of no significance, I think———

Mr. *Curran.*—Do you not believe that that paper which Mr. Jackson expressed such anxiety about was a family paper, and entirely of a private nature?—I do not know.

Mr. *Jackson.*—Mr. Attorney knows that there was such a paper among those that came under his inspection.

Mr. *Attorney General.*—I do not know; there were some papers that related to private affairs, and I believe they have been returned, or at least not examined.

Earl of *Clonmell.*—Was there among them a paper that could raise anxiety in the prisoner?

Mr. *Attorney General.*—I think there was one that reasonably might raise some anxiety in him.

Reuben Smith.—Examined by Mr. *Attorney General.*

Do you know Mr. Stone of Oldford?—Yes.

Have you seen him write?—Yes, frequently.

Look at that paper [shows witness a paper], whose hand-writing is that?—I believe it is the hand-writing of Mr. Stone of Oldford and of Rutland-place.

Look at the signature; whose hand-writing is it?—The signature is the name of Stone reversed; but I think the words W. Enots are Mr. Stone's hand-writing.

Whose hand-writing is the body of the letter?—Mr. Stone's.

[The clerk of the crown then read this letter (marked L.) as follows:]

Mr. Thomas Popkins.

Dear Sir;—I yesterday received your's of the 5th instant. I am happy you find yourself so agreeably situated where you are. I have received no letter for you; but the day after you left me, I received one to say your first letters were received. I have received another since, in which mine was acknowledged which I wrote the post after Gillet was with us, but no mention was made of any other.

I have not made use of what you left with me; what a wonderful change there is in the family. Will it tend to good. I confess I think better of it now than before. I want what you possess, a knowledge of the several branches of it to form a proper judgment of the conduct in the last fracas.

Political affairs seem taking a strange turn if we take into our view the great whole. I cease to wonder at any thing, we seem I think to be the only party resolved to go on with vigour. The king of Prussia publicly avows his disinclination, and I think the French as well as the emperor show it by their inaction; but to what can the proscription now going forward in Paris tend? will it purify them and make their conduct less exceptionable and their government more fixed and permanent? I really feel a kind of awe in thinking on those subjects, and see every day new matter to astonish me.—We are all tolerable well, and I remain your's very truly,

April 11th, 1794. W. Enots.

P. S. Since writing the above, I have received a letter in which is, "I have received our friends letters, and you must tell him, that having given them to the proper people, he must in future address his friend Nicholas and not me;" and in the conclusion he particularly requests he may not be written to.

I feel particularly happy that the several letters have been received, and I trust that even in the peculiar circumstances of the family, they will produce proper effects.

Mr. *Attorney General*.—We shall now read the paper, No. 5, there are two covers, both directed by Cockayne; the first is directed, "A Messrs. Texier, Angely et Massac, A Amsterdam." Within this is inclosed a second cover directed, "A Monsieur M. Daudebuscaille, A Amsterdam"—and within this is the paper which we shall now read, enclosed in a cover marked on the outside with a large black cross, and within which is written, "Remember me to Laignelot and all our friends."

[The Clerk of the Crown then read this paper (marked C) as follows:]

The situation of Ireland and England is fundamentally different in this—the government of England is national, that of Ireland provincial. *The interest of the first is the* same with that of the people—of the last directly opposite. The people of Ireland are divided into three sects; the Established Church, the Dissenters, and the Catholics; the first infinitely the smallest portion, have engrossed besides the whole church patronage, all the profits and honours of the country exclusively, and a very great share of the landed property. They are of course aristocrats, adverse to any change, and decided enemies of the French Revolution. The dissenters which are much more numerous, are the most enlightened body of the nation; they are steady republicans, devoted to liberty, and through all the stages of the French Revolution, have been enthusiastically attached to it. The Catholics, the great body of the people, are in the lowest degree of ignorance, and are ready for any change, because no change can make them worse. The whole peasantry of Ireland, the most oppressed and wretched in Europe, may be said to be Catholic. They have within these two years received a certain degree of information and manifested a proportionate degree of discontent by various insurrections, &c. They are a bold, hardy race, and make excellent soldiers. There is no where a higher spirit of aristocracy than in all the privileged orders, the clergy and gentry of Ireland, down to the very lowest, to countervail which, there appears now a spirit rising in the people which never existed before, but which is spreading most rapidly as appears by the Defenders as they are called, and other insurgents. If the people of Ireland be 4,500,000, as it seems probable they are, the established church may be reckoned at 450,000, the Dissenters at 900,000, the Catholics at 3,150,000. The prejudices in England are adverse to the French nation under whatever form of government. It seems idle to suppose the present rancour against the French is owing merely to their being republicans; it has been cherished by the manners of four centuries, and aggravated by continual wars. It is morally certain that any invasion of England would unite all ranks in opposition to the invaders. In Ireland, a conquered, oppressed, and insulted country, the name of England and her power is universally odious, save with those who have an interest in maintaining it: a body however only formidable from situation and property, but which the first convulsion would level in the dust; on the contrary, the great bulk of the people of Ireland would be ready to throw off the yoke in this country, if they saw any force sufficiently strong to resort to for defence until arrangements could be made; the dissenters are enemies to the English power from reason and from reflection, the Catholics from a hatred of the English name; in a word, the prejudices of one country are directly adverse of the other, directly favourable to an invasion. The government of Ireland is only to be looked upon as a government of force; the moment a superior force

appears, it would tumble at once, as being founded neither in the interests nor in the affections of the people. It may be said, the people of Ireland show no political exertion. In the first place, public spirit is completely depressed by the recent persecutions of several. The convention act, the gun-powder, &c. &c. Declarations of government, parliamentary unanimity, or declarations of grand juries, all proceeding from aristocrates, whose interest is adverse to that of the people, and who think such conduct necessary for their security are no obstacles; the weight of such men falls in the general welfare, and their own tenantry and dependants would desert and turn against them, the people have no way of expressing their discontent *civiliter*, which is at the same time greatly aggravated by those measures, and they are on the other hand in that semi-barbarous state which is, of all others, the best adapted for making war. The spirit of Ireland cannot therefore be calculated from newspaper publications, county meetings, &c. at which the gentry only meet and speak for themselves. They are so situated that they have but one way left to make their sentiments known, and that is by war. The church establishments and tythes are very severe grievances, and have been the cause of numberless local insurrections; in a word, from reason, reflection, interest, prejudice, the spirit of change, the misery of the great bulk of the nation, and above all, the hatred of the English name resulting from the tyranny of near seven centuries, there seems little doubt but an invasion in sufficient force would be supported by the people. There is scarce any army in the country, and the militia, the bulk of whom are Catholics, would to a moral certainty refuse to act, if they saw such a force as they could look to for support.

Mr. *Attorney General*.—The other letter directed to Hamburgh, is in the same words with this; we have also proved two other papers in the same words, found on Mr. Jackson's table.

Earl of *Clonmell*.—Read part of each of those papers found on Jackson's table; let their identity appear in proof.

[The clerk of the crown read part of each of the papers marked (D) and (E) accordingly, which appeared to be counterparts of the paper marked (C)——(D) directed to Monsieur Chapeaurouge, à Hamburgh. (E E) two copies found on Jackson's table.]

Mr. *Attorney General*.—We will now prove the paper found by Mr. Oliver Carleton on Mr. Jackson's table, which is the state of England that has been so much alluded to.

[Here the clerk of the crown read the letter, marked (F) as follows:]

Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs:

There are no politicks against the war.

There are courtly verdicts given by juries, with few exceptions.

There are no mobs, though much distressed.

There is much readiness to enlist as soldiers.

There is much quietness in being impressed on the part of seamen.

The votes of parliament are nearly unanimous, though the parliament has run through half its length, and the members of the House of Commons look to their re-election.

The stability of lord Chatham continues in defiance of all his neglects.

Terror pervades the friends of liberty who would soon show a different appearance if they were countenanced by the majority of the people.

The temper of England is in favour of the first French revolution, but not of the second.—However, on the whole it shows symptoms of being adverse to the present situation of the war, not from disliking its principle, but from seeing little profit in it. At the same time, though they think its main object unattainable (namely the overthrow of the present French system) they would be more earnest for peace had they either suffered enough, or did they think the present French government sincerely disposed to peace.

There are many persons attached to the principles of the French revolution in England, if they are reckoned numerically, but they are as nothing compared to the great mass of the people who are indisposed to them.

In Scotland the proportion of democrats is increasing, but they are as yet a small minority.

Ireland will follow the democracy of Scotland, each of these countries wants time only to convince itself in its own way, but it will not be convinced by a French invasion.

If France were to invade England every man would turn out from good will or from fear, and the few who are discontented would be quelled with ease, as the French citizens were by La Fayette in the Champ de Mars, or the disaffected lately by the commissioners in Alsace.

There could be but one line of conduct for Englishmen to pursue, should the country be invaded.—They must defend it.

Wars being but the means of attaining peace, and the well meaning among the subjects of the confederates being told that the French are so adverse to peace, or ask such preliminaries that it is in vain to treat with them, it would be highly useful if France declared, after any new successes which she may hereafter attain,

Her aversion to conquest,
Her disposition to peace,
Her desire that other nations should govern themselves.

Her determination of changing this system if the war against her is continued.

would be useful also if every convenient opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace; and also if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language which has an astonishing effect in pacifying the English, and indeed pacifying Europe.

It would tend much to conciliate the minds of the English were the Convention to decree the liberation of all the English now in a state of arrest unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country within a certain space of time.

It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war.

It would be very adviseable to have copies of the more important decrees of reports lodged at Havre to come hither by neutral vessels for the purpose of being translated.

Mr. *Attorney General.*—We will now read another paper proved to have been found on Mr. Jackson's table; a note from Mr. Hamilton Rowan to Mr. Jackson.

[Here the clerk of the crown read a paper marked (O) as follows:]

——— Jackson, esq. Hyde's Coffee-house, Dame-street.

Will you be so good as to share my breakfast with me to-morrow at nine, which I am particularly desirous of—as I find a party made for dinner cannot take place. I need not say that by nine I mean nine or as near it as you can, for I have hopes that a third person will, in that case, take his share before he leaves town, which I find he is forced to do in the course of the morning.

A. Hamilton Rowan.

Newgate, April 5th, 1794.

Mr. *Attorney General.*—We shall read also Mr. Tone's note, found also on Mr. Jackson's table.

[Here the clerk of the crown read a paper marked (N) as follows:]

——— Jackson, esq.

Mr. Tone presents his compliments to Mr. Jackson, and is extremely concerned that indispensable law business hurries him out of town to-morrow-morning. He is of course deprived of the honour of attending Mr. Jackson at dinner, but will embrace the first moment of his return, which he hopes will be in a week, to pay his respects to Mr. Jackson.

Tuesday Morning.

Mr. *Attorney General.*—We shall offer one piece of evidence more; the letter written by John Hurford Stone of Paris, recommending the prisoner to Mr. Horne Tooke; it was found on the table in the prisoner's room when he was arrested.

Mr. *Curran.*—This is not the best evidence the nature of the case admits; if Mr. Stone wrote any letter, he is the person to prove it.

Mr. *Attorney General.*—I offer it as a paper found in the possession of the prisoner; but, added to that, I wish to prove that it is the hand-writing of Mr. Stone of Paris. If Mr. Stone were here he could not be examined as to this letter, because it would be to ask him whether he was a conspirator: it is to me a matter of indifference whether it is proved or not—I offer a witness to prove his hand-writing—I care not about the event.

Earl of *Clonmell.*—I should be inclined to admit this evidence if it were necessary, but I should think it is not.

Mr. Attorney General being of opinion that the letter was material evidence, it was read as follows:

John Horne Tooke, London.

Paris, 25 Nivose.—Second Year of the Republic, One and Indivisible.

My dear Friend; The circumstances of the two countries have hitherto prevented me from giving or receiving any information respecting you, for as there have been few or no other means of communication than the post, I have had the Traitorous Correspondence Bill too much before my eyes, to hazard your tranquillity, though I had nothing to fear for my own; this however will be delivered to you by a gentleman, a citizen I should have said, to whom you have been heretofore known, and I introduce him as one who will be able to give you the most accurate information of what is doing, and has been done here—and recommend him also as the person to whom you may confide your own sentiments respecting the state of affairs in this country or your own.

As I know that your prudence keeps some pace with your patriotism, you may be satisfied that I am sure of the principles of the man I thus confidentially introduce to you, and thus much you may repose on me.—As to the rest, I leave you to arrange it, wishing myself a third in the party.

And now my patriotic friend, let me offer you my warmest and most heartfelt congratulations on the immense prospect of public happiness which is opening before us; you are amongst the small number of those, who in the worst of times have never despaired of the cause of liberty, and you are the only one who when the name was but a barbarism amongst us, taught the great principles of sacred equality which we have so completely reduced to practice. I look forward with transport and joy, to the moment when the

doctrines which you have preached shall receive their due accomplishment, when the various parties of ministerialists and oppositionists, dissenters and churchmen, nobles, priests and kings, shall sink into one undistinguished, mass of ruins, and nothing shall be seen or acknowledged but the people, the sacred voice of the people.

The little commission which you gave me to the milliner, I have properly executed; it was to have been sent to the ladies the last spring, but the untowardness of events at that time hindered the completion, and I could not find also any one to whom I could properly intrust it, the fashion being a little changed; if nothing unforeseen happens to hinder it, you may expect to have it over in two months at farthest; and under happier auspices than the last spring; since the fashion is so much improved, and I have taken all the precautions and even more than you entrusted me with at Tuffins; but the sending it, as you may suppose will depend on circumstances.

I leave to the friend I introduce to you the relation of the history of this country for the twelve months last past. You will have fallen into a thousand errors on the subject of our politics, as I, though on the spot, have done; but I think I now see land.

God bless you, we shall meet under happier circumstances than our last, and drink a cool bottle of good Burgundy under the shade of our trees, an early day in the next summer, if you can spare so much time from your legislative or ministerial avocations.

Health and fraternity.

J. H. Stone.

Mr. *Attorney General*.—As some attempt has been made to discredit the evidence of Mr. Cockayne, we will now produce a witness to establish his credit.

Mr. *Curran*.—There has not been any evidence called on our side to impeach the character of Mr. Cockayne.—The gentlemen themselves show that they have a good opinion of his credit, when they want to hoop him before he is cracked. I never saw such a course before.

Mr. *Attorney General*.—Then you shall see it now, and I hope with success; I think we have a right to call evidence to a witness's character, whether it has been attempted to be impeached by other evidence, or by something coming out on his cross-examination.

Mr. *Curran*.—I am driven, I find, to state the ground of my objection;—I did not think it could be resisted.—I conceive the uniform rule of law to be, that if the credit of a witness is impeached, that witness may purge the impeachment by contradicting the allegations of the impeachment; but I submit it that this rule can hold only where evidence *aliunde* is *resorted to, to impeach* the credit of the witness.—*That the nature* of this case makes the application of the rule unnecessary; the rule is, that evidence may be called to contradict the impeachment—now, on what is the impeachment here, if any there be, founded?—on the evidence of the man himself.—I never heard of evidence being called for a man to rebut a man's own evidence—to call a witness to rebut something, is to call a witness contrary to something; then the witness has been impeached—how? he was asked, were you tried for perjury? yes, said he, and acquitted; and honourably; then the evidence offered goes to rebut Cockayne's own evidence. This then is an unusual and extraordinary proceeding, and I trust therefore that you will be of opinion that this evidence ought not to be received.

Earl of *Clonmell*.—We are of opinion that this man may be produced to this transaction, for what is it to do? it is to produce several witnesses to corroborate the same fact. Cockayne says he was tried for perjury, and acquitted; now, the jury may believe that he was tried, and not believe one word of what he said about his acquittal; then you produce evidence to supply this.

Mr. Justice *Chamberlaine*.—I think the testimony of Cockayne has been attempted to be impeached; whether with success or not, I do not know; but the cross-examination could have had no other object; now is he not to be corroborated in a fact material to establish his credit?

[The Court having overruled the objection, the witness was called.]

Robert Mounsey.—Examined by Mr. *Solicitor General*.

Where do you live, Sir?—In Castle-street, Holborn, in the city of London.

Of what profession are you?—I am an attorney and solicitor of Westminster-hall.

What paper is that which you hold in your hand?—It is an office copy of the indictment and acquittal of John Cockayne who was examined here this day.

Were you present at the trial of Cockayne?—I was.

Have you compared that copy?—I did both ways.

And saw it attested by the proper officer?—Yes.

Do you recollect any circumstances that passed upon the trial?—I recollect what Cockayne related, and every thing he has said is perfectly true.

Do you recollect any thing else?—Mr. Garrow who was his counsel, said that they had not produced a copy of the judgment, and that Cockayne could take advantage of it, but Cockayne said he would not have any advantage taken, but that he would either be found guilty or acquitted on the merits.

How did the prosecutor conduct himself?—He seemed to be very forward, and Mr. Mainwaring, who was the chairman, and one of the prothonotaries who was to tax the bill

of costs, called on Fletcher, the prosecutor, and desired him not to be so very forward.

Did any friends attend Cockayne on his trial?—Mr. Impey, who wrote Impey's Practice, Mr. Lowton the marshal, and several respectable people came forward as his friends.

Was the acquittal on the merits? It was. He was acquitted on the prosecutor's evidence, without calling a witness.

Cross-examined by *Mr. Ponsonby.*

Did Cockayne ever appear for you as a witness in any cause at York?—Never

Is he a particular acquaintance of your's?—He is not.

What is your motive in coming forward this day?—Because I thought him very ill used.

Had you not any other business here?—None other but to give an account of this transaction.

John Cockayne called up by Mr. *Curran.*

In what part of the house did you lie?—I lay on the same floor with Mr. Jackson.

Who usually got up first?—I was generally up before him.

Have you heard there were any papers found in his chamber?—I have.

Had you any papers in his chamber the evening before?—I should think not.

Did you ever say to any person that you had the papers which were found there in your hands at twelve o'clock the night before?—I never did.

DEFENCE.

Mr. *Curran.*—My lords, and gentlemen of the Jury; I am sure the attention of the Court must be a good deal fatigued. I am sure, gentlemen of the jury, that your minds must of necessity be fatigued also. Whether counsel be fatigued, or not, is matter very little worth the observation that may be made upon it. I am glad that it is not necessary for me to add a great deal to the labour, either of the Court, or the Jury. Of the Court I must have some knowledge—of the jury I certainly am not ignorant. I know it is as unnecessary for me to say much, or perhaps any thing to inform the Court, as it would be ridiculous to affect to lecture a jury of the description I have the honour to address. I know I address a Court, anxious to expound fairly, and impartially, the law of the country, without any apprehension of the consequences and effect of any prosecution.—In the jury I am looking to now, I know I address twelve sensible and respectable men of my country, who are as conscious as I am of the great obligation to which they have pledged themselves by their oath, to decide upon the question fairly, without listening to passion, or being swayed by prejudice—without thinking of any thing except the charge which has been made, and the evidence which has been brought in support of that charge. They know as well as I do, that the great object of a jury is, to protect the country against crimes, and to protect individuals against all accsuation, that is not founded in truth. They will remember—I know they will remember,—that the great object of their duty is, according to the expression of a late venerated judge in another country, that they are to come into the box with their minds like white paper, upon which prejudice, or passion, or bias, or talk, or hope, or fear, has not been able to scrawl any thing:—That you, gentlemen, come into the box, standing indifferent as you stood unsworn.

In the little, gentlemen (and it shall not be much), that I shall take the liberty of addressing to you, I shall rest the fate of it upon its intrinsic weight. I shall not leave the case in concealment. If there be no ground on which the evidence can be impeached, I will venture to say I will neither bark at it, nor scold it, in lieu of giving it an answer. Whatever objection I have to make, shall be addressed to your reason. I will not say they are great, or conclusive, or unanswerable objections. I shall submit them to you nakedly as they appear to me. If they have weight, you will give it to them. If they have not, a great promise on my part will not give anticipated weight to that whose debility will appear when it comes to be examined.

Gentlemen, you are empanelled to try a charge. It consists of two offences particularly described in the indictment. The first question is, what is the allegation? In the first branch, the prisoner is indicted upon a statute, which inflicts the pains and penalties of high treason upon any man, who shall compass or imagine the king's death. The nature of the offence, if you required any comment on it, has been learnedly, and I must add, candidly commented upon by Mr. Attorney General in stating the case.—The second part is, that the prisoner did adhere to the king's enemies. By the law of this country, there are particular rules, applicable to cases of prosecutions for high treason, contradistinguished from all the other branches of the criminal law. The nature of the offence called for this peculiarity of regulation. There is no species of charge to which innocent men may more easily be made victims than that of offences against the state, and therefore it was necessary to give an additional protection to the subject.—There is an honest impulse in the natural and laudable loyalty of every man, that warms his passions strongly against the person who endeavours to disturb the public quiet and security; it was necessary therefore to guard the subject against the most dangerous of all abuses, the abuse of a virtue, by extraordinary vigilance. There was another reason—there is no charge which is so vague and indefinite, and yet would be more likely to succeed, than charging a man as an enemy to the state. There is no case in which the venality of a base informer, could have greater expecta-

tion of a base reward. Therefore, gentlemen, it was necessary to guard persons accused from the over hasty virtue of a jury on the one hand, and on the other, from being made the sacrifices of the base and rank prostitution of a depraved informer. How has the law done this?—By pointing out in terms, these rules and orders that shall guide the Court, and bind the jury in the verdict they shall give.—The man shall be a traitor, if he commits the crime, but it must be a crime of which he should be proveably attaint by overt acts. And in order that there be an opportunity of investigation and defence, the features of the overt acts should be stated of public record in the very body of the indictment. Justly do I hear it observed, that there cannot be devised a fairer mode of accusation and trial, than this is. Gentlemen, I have stated to you, how the foundation of it stands in both countries, touching the mode of accusation and trial. I have to add to you, that in Great Britain it has been found necessary still farther to increase the sanction of the jury, and the safety of the prisoner, by an express statute in king William's time. By that law it is now settled in that great country, that no man shall be indicted or convicted, except upon the evidence of two witnesses, and it describes what sort of evidence that shall be, either two witnesses swearing directly to the same overt act laid in the indictment; or two witnesses, one swearing to one overt act, and the other to another overt act of the same species of treason. So that in that country, no man can be found guilty, except upon the evidence of two distinct credible witnesses, credible in their testimony, distinct in their persons, and concurring in the evidence of acts, of one and the same class of treason; for it must be to the same identical treason, sworn to by both witnesses; or one witness deposing to one act of treason, and the other to another act of the same class of treason; that is the settled law of the neighbouring kingdom, and I state it to you emphatically to be the settled law; because far am I from thinking, that we have not the blessing of living under the same sanction of law, far am I from imagining that the breath which cannot even taint the character of a man in England shall here blow him from the earth—that the proof, which in England would not wound the man, shall here deprive him of his life—that though the people in England would laugh at the accusation, yet here it shall call the accused to perish under it.———Sure I am that in a country where so few instances of a foul accusation of this sort have occurred, the judges of the court will need little argument to give effect to every thing urged to show that the law is the same in Ireland as in England.

Earl of *Clonmell*.—Do you mean to argue that the statute of William is in force in Ireland?

Mr. *Curran*.—No, my lord; not that the statute of William is in force—but I mean to argue, that the necessity of two witnesses in the case of treason, is as strong here as in England.———It is the opinion of lord Coke, founded upon a number of authorities; the opinion of lord Coke referring to a judicial confirmation of what he says;—the opinion of lord Coke controverted, if it can be said to be controverted, by the modest and diffident dissent of sir Michael Foster, and controverted (though it be not adding much to the character of sir Michael Foster to say it is controverted) by Mr. serjeant Hawkins.—It is laid down by lord Coke, that he conceives it to be the established law, that two witnesses are necessary to convict: 3 Inst. 26. "It seemeth that by the ancient common law, one accuser or witness was not sufficient to convict any person of high treason.—And that two witnesses be required, appeareth by our books, and I remember no authority in our books to the contrary."———I know of no judicial determination in our books to the contrary of what lord Coke here states:—the common law is grounded upon the principles of reason. I consider the statutes of Edw. 6th and William 3rd as statutes which had become necessary from the abuses occasioned by a departure from the common law. After the statute of Edw. 6th, expressly declaring the necessity of two witnesess, the courts had fallen into, perhaps a well-intentioned departure from the meaning of the statute of Edw. 6th, so far that the place of two witnesses was supplied in evidence by any thing that the Court thought a material additional circumstance in the case; and to the time of William 3rd, such a departure had prevailed, and this was thought sufficient to discharge every thing respecting the obligations of the statute. It became necessary therefore to enact, and by that enactment to do away the abuse of the principle of the common law, by expressly declaring that no man should be indicted or convicted except by two witnesses to one overt act, or one witness to one act, and a second to another act of high treason of the same species. And there seems to me to be a sound distinction between the case of high treason, and of any other crime. It is the only crime which every subject is sworn against committing: it is the only crime which any subject is sworn to abstain from. In every other case, the subject is left to the fear of punishment which he may feel, or to the dictates of his conscience to guard himself against transgressing the law; but treason is a breach of his oath of allegiance and is so far like the case of perjury; and therefore in the case of treason, no man should be convicted by the testimony of a single witness, because it amounts to no more than oath against oath: so that it is only reasonable there should be another to turn th- and therefore it is that I conceive well warranted in laying down thi- deduced from general justice,

the law of God himself. Gentlemen, what I am now stating I offer to the Court as matter of law.

But what were these witnesses?—Witnesses in all cases beyond exception, in their personal circumstances, and in their personal credit. Therefore it is the law, that no man shall be found guilty of any offence that is not legally proved upon him by the sworn testimony of credible witnesses. Gentlemen, I have submitted my humble ideas of the law—I have stated the charge which the prisoner was called upon to answer:—Let me now state the overt acts, which in this particular case are necessary ro be proved. The first is, that the prisoner did traitorously come to, and land in Ireland, to procure information concerning the subjects of Ireland, and to send that information to the persons exercising the government in France to aid them in carrying on the war against the king. I do not recollect, that Cockayne said one single word of the prisoner's coming here for such purpose. The second overt act is, that the prisoner did traitorously intend to raise and levy war, and incite persons to invade Ireland with arms and men; that he did incite Theobald Wolfe Tone to go beyond seas to incite France to invade this kingdom; that he did endeavour to procure persons to go to France; and that he agreed with other persons that they should be sent to France for the same purpose.

Having stated these overt acts which are laid in the indictment, you will be pleased to recollect the evidence given by Cockayne. Cockayne did not say that the prisoner came over here for any such purpose as the overt act attributes to him; then as to the overt act, of endeavouring to procure persons to go to France for the purpose of giving information to the enemy; the witness said he met Mr M'Nally: he had known him in England; Jackson was a clergyman; he had known him also. Cockayne had profcssional business with Mr. M'Nally. Mr. M'Nally paid them a courtesy which any decent person would have been entitled to. They dined at his house, and met three or four persons there they talked of the politics of Ireland; of the dissatisfaction of the people; but not a syllable of what is stated in the indictment; not one word of any conspiracy; Cockayne did not pretend to be able to give any account of any specific conversation; he went to Newgate; Rowan was then in confinement; he sometimes went by himself; sometimes met Tone, sometimes Jackson; he gave you an account of encouragement; what was it? Was there any thing to support this indictment? Let me remind you that you are to found your verdict on what the witness says and you believe, and not on what learned counsel may be instructed to state. Then what does the witness say? He admits he did not hear *all* the conversation. The crying injustice must strike you, of making a man answerable for a part of a conversation, where the witness did not hear it all; but take it as he has stated it, unqualified and unconstrued; how high was he wrought up by it? He heard talk of somebody to go to France; he was to carry papers; he heard an expression of instructions to the French; what French? What instructions? It might be to French manufacteurrs: it might be to French traitors; it might be to the French king; it might be to the French Convention. Do I mean to say that there was nothing by which a credulous or reasonable man might not have his suspicion raised, or that there was nothing in three or four men hudling themselves together in Newgate and talking of an invasion? No, but my reasoning is this—That your verdict is to be founded on evidence of positive guilt established at the hazard of the personal punishment of the witness, you are not to pick up the conjectures either of his malignity or credulity. I say that this man stands in defiance of your verdict, because it will be effected by nothing but that irresistible evidence on which alone it ought to be founded. But what was the fact which Tone was to do or any other person? It was an illegal one. By a late act, an English subject going to France is liable to six months imprisonment. By a clause in the same statute the crime of soliciting a person to go is also punishable. The encouraging any person to go to that country was therefore exposing him to danger, but whether it was a motive of trade, or smuggling or idle adventure is not the question for you. It is whether the intention was to convey an incitement to the French to make a descent on this kingdom, and endeavour to subvert the constitution of it. You have a simple question before you—has even the prosecutor sworn that he endeavoured to do so?—I think not.

The next overt act charged is, that he did compose and write a letter in order to be sent to William Stone, in which he traitorously desired Stone to disclose to certain persons in France the scheme and intention of Jackson, to send a person to inform them of the state of Ireland, for the purpose of giving support and effect to an hostile invasion of this country. You have heard these letters read. You must of necessity look on them in one or two important and distinct points of view. The first perhaps that will naturally strike you is, what are these letters?—Do they sustain the allegations of the overt act?—Are they letters requiring Stone to inform the convention, of this country being in such a state as to encourage an invasion? Does that paper support this allegation?—God help us! gentlemen of the jury!—I know not in what state the property or life of any man will be if they are always to be at the mercy, and to depend on the possibility of his explaining either the real or pretended circumstances on which he corresponds with persons abroad. The letters are written apparently upon mercantile subjects—he talks of manufactures, of a firm,

of prices changed, of different families, of differences among them, of overtures to be accepted of, of disputes likely to be settled by means of common mediation:—what is the evidence on which you can be supported in saying that manufactures mean treason—that Nicholas means the war minister of France—the sister-in law Ireland—that "the firm has been changed," means Danton has been guillotined, but that makes no alteration in the state of the house, meaning the circumstances of the revolution—that the change of prices and manufactures means any thing else necessary to give consistency to the charge of treason. Give me leave to say that this ludicrous and barbarous consequence would follow from a rule of this sort, the idlest letter might be strained to any purpose. The simplicity of our law is, that a man's guilt should be proved by the evidence of witnesses on their oaths, which shall not be supplied by fancy, nor elicited by the ingenuity of any person making suggestions to the wretched credulity of a jury that should be weak enough to adopt them. I come now to this. A letter produced imports on the face of it to be a letter of business, concerning manufactures—another concerning family differences. In which way are they to be understood? I say with confidence, better it should be to let twenty men, that might have a criminal purpose in writing letters of this kind, escape, than fall into the dreadful alternative of making one man a victim to a charge of this kind not supported by such proof as could bring conviction to the mind of a rational jury.

I do not think it necessary to state to you minutely, the rest of these allegations of the overt acts. The charge against the prisoner is supported,—and this is perhaps the clearest way of calling your attention to the evidence,—either by the positive evidence of Cockayne as to these facts, or by the written evidence which stands also on his testimony alone. Touching actual conspiracy he said nothing: somebody was to go to France—he knew not for what—he had an idea on his mind for what it was—but never from any communication with Jackson. There have been other letters read in evidence. Two of them contained duplicates of a sort of representation of the supposed state of Ireland. Cockayne says that he got the packet from Jackson, that he himself wrote the direction; one, addressed to Amsterdam, the other to Hamburgh. They were read, and they contain assertions, whether true or false I do not think material, of the state of this country. If material at all, material only in their falsehood. The public are satisfied that these allegations are false.—It is known to every man in this country, and must be known with great satisfaction by every honest man, that it is not in that state that could induce any but the most adventurous and wicked folly to try an experiment upon it. It is unnecessary for me to comment on the opinions contained in that paper; there is a matter more material, and calling more loudly for your attention. It is stated to be written with the purpose of inviting the persons governing in France to try a descent upon Ireland. This paper is evidence to support that charge; you have heard it read.—On what public subject have you ever heard six men speak and all to agree? Might not a stranger, in a fit of despondency, imagine that an invasion might have a fatal effect on this country? It is not impossible but if ten men were to make a landing, some mischief might happen. Then again what do I mean to argue? Is it that this letter bears no marks of the design imputed to it? No such thing. It is a letter that the most innocent man might write, but it is also such a one as a guilty man might write, but unless there was clear evidence of his guilt, he would be entitled to your verdict of acquittal.—Though it was not expressly avowed, yet I cannot help thinking that it was meant to lay some little emphasis on certain names which I have met with in the newspapers—I am sure I have met the name of Laignelot in the debates of the convention—I have met the name of Horne Tooke and Stone in the English papers. I have read that Horne Tooke was tried for high treason and acquitted. That Stone made his escape into Switzerland. I believe it is said that there is a person of that name in confinement in England at present. But let me tell you, you are not to draw any inferences from circumstances of this kind against the prisoner. Let me tell you it is the guilt of the man, and not the sound of names by which his fate is to be decided.

Other papers have been read. One seems to contain some form of addresses. A letter said to come from Stone has been read to you. The letter to Beresford said to be written by Jackson has also been read to you. I have stated the material parts of the evidence. I have endeavoured to submit my poor idea of the rule by which you ought to be guided. I see only one remaining topic to trouble you upon; it appears to me to be a topic of the utmost importance. And, gentlemen it is this: Who is the man that has been examined to support this charge? one witness, I beseech you to have that engraven on your minds. The charge in all its parts stands only on the evidence of Cockayne; there is no other evidence of any conversation, there is not a material letter read in this case that does not rest upon Cockayne's evidence, and that I am warranted in this assertion you will see to a demonstration when I remind the Court that he was the only witness as I recollect called to prove the hand-writing of Jackson. On his testimony alone must depend the fact of their being his hand-writing of the innuendos imputed to them or the pose with which they were sent.

Gentlemen, I am scarcely justified i

trespassed so long on your patience.—It is a narrow case.—It is a case of a man charged with the highest and most penal offence known by our law, and charged by one witness only. And let me ask, who that witness is? a man stating that he comes from another country, armed with a pardon for treasons committed in Ireland, but not in England whence he comes. What! were you never on a jury before? Did you ever hear of a man forfeiting his life on the unsupported evidence of a single witness, and he an accomplice by his own confession. What! his character made the subject of testimony and support! take his own vile evidence for his character. He was the foul traitor of his own client. What do you think now of his character? He was a spy upon his friend. He was the man that yielded to the tie of three oaths of allegiance, to watch the steps of his client for the bribe of government, with a pardon for the treasons he might commit; and he had impressed on his mind the conviction that he was liable to be executed as a traitor.—Was he aware of his crime? his pardon speaks it. Was he aware of the turpitude of his character? he came with the cure,—he brought his witness in his pocket. To what? To do away an offence which he did not venture to deny; that he had incautiously sworn that which was false in fact, though the jury did not choose to give it the name of wilful and corrupt perjury. Gracious God! Is it then on the evidence of a man of this kind, with his pardon in his pocket, and his bribe—not yet in his pocket—that you can venture to convict the prisoner? He was to be taken care of. How so? Jackson owed him a debt. "I was to do the honourable business of a spy and informer, and to be paid for it in the common way, it was common *acreable* work—treason and conspiracy, I was to be paid for it by the sheet." Do you find men doing these things in common life?—I have now stated the circumstances by which, in my opinion, the credit of Cockayne ought to be reduced to nothing in your eyes. But I do not rest here. Papers were found in the chamber of Mr. Jackson—the door was open, and by-the-by, that carelessness was not evidence of any conscious guilt—the papers were seized; that there were some belonging to Jackson is clear, because he expressed an anxiety about some that are confessed not to have any relation to the subject of this day's trial. I asked Cockayne if he had any papers in Jackson's room the night before he was arrested—he said not. I asked him if he had told any person that he had—he said not. Gentlemen, the only witness I shall call, will be one to show you that he has in that sworn falsely. And let me here make one observation to you, the strength and good sense of which has been repeated an hundred times, and therefore, rests on better authority than mine. Where a witness swears glibly to a number of circumstances, where it is impossible to produce contradictory proof, and is found to fail in one, it shall overthrow all the others. And see how strongly the observation applies here—he swore to a conversation with Jackson as to what he said and did, well knowing that Jackson could not be a witness to disprove that, unless the good sense of the jury should save his life, and enable him to become in his turn a prosecutor for the perjury. If on a point of this kind this man shall be found to have forsworn himself, it cannot occasion any other sentiment but this, that if you have felt yourselves disposed to give any thing like credit to his evidence where he has sworn to facts which he must have known, it is the key stone of the arch in his testimony, and if you can pluck it from its place, the remainder of the pile will fall in ruins about his head.

I will produce that witness—but before I sit down, permit me, gentlemen of the jury, to remind you, that if every word which Cockayne has here sworn were sworn in Westminster-hall, the judges, would immediately have said—there is not any thing for the jury to decide upon; the evidence of incitement rests on him alone, there is no second witness; so does the transaction of the letters; for De Joncourt's testimony could not have satisfied the statute; it was not evidence to the same overt act as affecting Jackson personally, nor was it evidence of any distinct overt act, it was merely that species of evidence, the abuse of which had been the cause of introducing the statute of William; a mere collateral concomitant evidence. The overt act was writing and putting into the post-office, that was sworn to by Cockayne, and if he deserved credit, would go so far as to prove the fact by one witness. See what the idea of the statute is; it is that it must be an overt act brought home to the prisoner by each of the two witnesses swearing to it. If De Joncourt's evidence stood single, it could not have brought any thing home to Jackson. Cockayne swore the superscription was his writing; he put the letters into the office. De Joncourt said nothing but that he found in the office a letter which he produced, and which Cockayne said was the one he had put into it. This observation appears to collect additional strength from this circumstance. Why did they not produce Tone? It is said they could not. I say they could. It was as easy to pardon him as to pardon Cockayne. But whether he was guilty or not is no objection. Shall it be said that the argument turns about and affects Jackson as much as it does the prosecutor? I think certainly not. Jackson, I believe it has appeared in the course of the evidence and is matter of judicial knowledge to the Court, has lain in prison for twelve months past, from the moment of his arrest to the moment of his trial. If he is conscious that the charge is false, it is impossible for him to prove that falsehood; he was so circumstanced as that he could not procure the

attendance of witnesses; a stranger in the country, he could not tell whether some of the persons named were in existence or not. I have before apologized to you for trespassing upon your patience, and I have again trespassed—let me not repeat it. I shall only take the liberty of reminding you, that if you have any doubt,—in a criminal case doubt should be acquittal,—that you are trying a case, which if tried in England would preclude the jury from the possibility of finding a verdict of condemnation; it is for you to put it into the power of mankind to say, that that which should pass harmlessly over the head of a man in Great Britain shall blast him here; —whether life is more valuable in that country than in this, or whether a verdict may more easily be obtained here in a case tending to establish pains and penalties of this severe nature.

[William Humphrys was then called several times for the prisoner, but did not attend.]

Mr. *Ponsonby*.—Mr. Curran has gone so fully into the case as to leave very little for me to say upon the subject. Gentlemen of the jury, the Court will, I am sure, tell you that the laws of England and Ireland know no single authority so great as that of sir Edward Coke. I am not afraid to be contradicted, when I say, that in point of learning, practice, experience and reputation, as a lawyer, no man has arisen in these countries whose authority holds an equal place with his; and he lays down the common law to be, that no man can be convicted of high treason but on the evidence of two witnesses. I do freely admit that later lawyers have held this doctrine to be erroneous, and that in truth the common law is, that on the evidence of a single witness a man may be convicted of high treason. I admit that sir Michael Foster and serjeant Hawkins say so. I admit Foster an authority, but I do not admit Hawkins an authority. But I do not admit them or any other man so great an authority as lord Coke—and he expressly lays it down, that on the evidence of one man only shall no person be convicted of high treason. I am ready to read the words of Foster: he says, page 233, 3rd edition. "It hath been generally agreed, and I think upon just grounds (though lord Coke hath advanced a contrary doctrine) that at common law one witness was sufficient in the case of treason, as well as in every other capital case." No man will deny that Coke stands higher than any other lawyer, and no man will deny that that difference subsisted between him and those men. But whatsoever may be the opinion of Foster, who wrote in the reign of George 2nd, he was giving his opinion on a case perfectly out of the way at that time—on a case on which it was totally unnecessary for him to give an opinion—on a case which had not nor could have been drawn into controversy for eighty years before; because that early in the reign of king William there passed an act for the regulation of trials in high treason. This was an act declaratory of the common law as was the statute of Edward 3rd; for no lawyer will say, that the statute of treasons, the best statute in our statute books, is any thing else than declaratory of the common law of England. Lord Coke says expressly that one witness was not sufficient; others have differed from him; but the statute of William 3rd put the question out of dispute for the future, because it enacts that no man be convicted of high treason, but on the oaths of two credible witnesses. Whatever might have been the opinion of lawyers before, it is clear that from the time of passing that statute, the question was put out of doubt, because two witnesses are now expressly required. Therefore, when Foster wrote that book, he was giving an opinion rather as an antiquary than a lawyer, because he was examining a subject which could not come into discussion so long as the statute of William 3rd remained. If the legislature had not conceived lord Coke right in his idea of the common law, why should they have thought it necessary to pass that act? either they held that no man could be convicted without the testimony of two witnesses, or they thought proper to enact it for the first time. They could have but this reason for it; that if the law was not so, it ought to be so.

Cockayne is the only witness that has appeared to you in this case, for as to the others they have been merely examined to the finding of papers here, delivering letters there, or something of that sort. None of them were examined to prove any criminal charge whatever against Jackson. The written letters are proved only by Cockayne, the conversations are proved only by Cockayne, in short the alleged treason in this case is proved only by Cockayne. And, gentlemen of the jury, it demands serious consideration on your part, whether even supposing the law of Ireland to be such as that a man may be convicted on the evidence of a single witness, Cockayne be such a one as will justify you in finding a verdict of conviction on his testimony. By the law of England there must be either two witnesses to the same overt act, or one of them to one, and another to another overt act of the same treason; but if there be two distinct treasons of divers kinds in one bill of indictment, one witness to one, and another to another of the said treasons would not be sufficient within the act. How is the treason alleged here? There are two species charged, compassing the king's death and adhering to his enemies. Do they produce two witnesses to any one overt act, as the law of England requires? No. But they allege two distinct treasons, and produce but one witness to prove both: in England you must have two witnesses to one species of treason, here it there needs but one witness to two sp treason.

Does Cockayne appear to you

light as to justify you in your consciences to take away a man's life on the credit of his evidence? See the account he gives of himself, he said he thought Jackson had some intention of sending to the enemy some articles that were prohibited, and he came here to prevent him. Was it necessary to prevent Jackson from sending goods from Ireland, that he should be allowed to come hither, instead of being stopt in England? Was there no other way of doing that but by his coming with him to Ireland? Because, if he said truly, he thought that the best way to prevent Jackson's sending goods from hence, was to let him come hither.—But it is plain from his own swearing that that could not be his object. It must have been to forward him in the execution of his criminal intentions in order to betray him, and then to be rewarded for his treachery. I know not in what light to look on Cockayne. Shall I call him what the law calls an approver, was he in his secrets? Did he join him? Did he afterwards betray him? If so, the old maxim of our law was that no man for any crime could be convicted on the evidence of such a person. I allow that later practice has departed from that rule, and that the evidence of an approver which was formerly driven from the bar is now received. But of all the evidence known it is not only the most odious but the weakest, and no judge ever tries such a case, who does not tell the jury so. Now, in what light does Cockayne stand? if he is to be believed, he must have known Jackson's projects: in intention he must have been as criminal as Jackson—and this for the purpose of betraying his confidence, and being rewarded for it; for this purpose he becomes an approver against the man with whom he had been engaged; and this man was the only witness; if there were criminal plots existing, why not examine others? Why not examine Tone or Lewins? It was as easy to pardon them as Cockayne: if their story was true, why did they rest the credit of it on Cockayne, when they might have had other witnesses?—and then, they might have had not only more, but better evidence—then they might have had the evidence of men, though equally criminal, yet not equally disgraceful—of men who had not upon their oaths, and before the eyes of the jury, been base enough to betray their fellow traitor; they might have had evidence on which the jury might have rested: a pardon would have made them competent —their conduct would have cleared them from the business—can you think that they would have brought this case forward, supported by such a witness as Cockayne alone, if they could have ventured to produce the rest? if their story was true, they would either have prosecuted the rest for treason, or have pardoned them in order to produce them here.

Cockayne tells you that when the letters were put into the post-office, they were not indeed intended to be sent abroad; they were never to go out of the country, for he himself knew they would be stopt; yet the indictment avers that they were intended to be sent out of the country, and were delivered at the post-office for that purpose.

It is difficult indeed to lay much stress on the evidence of Cockayne—his memory was singularly bad—he was present at many meetings—at various conversations—yet, he could remember nothing—he understood—he thought—he believed,—but he could not swear.—What was the fact? Was it that he was present at these meetings, these conversations, and yet did not remember them? No—the object of this hesitation, this pretended delicacy, was, that when he should come to the material parts of the case, they might so far work on your minds as to induce you to give credit to him.—Do you think he would not have sworn to hang Jackson, if he thought it material to get his money from Mr. Pitt?—No reward did he require—no reward did he ask, but only the amount of a debt due to him by the prisoner —that was all he expected—all he desired to receive. Now, can you imagine that he would have hesitated but from an affected delicacy, that he might reserve himself for what he thought the most important parts of the case?

The character of Cockayne has been supported by a witness—the character of Cockayne has been given by himself—he was shocked at the base idea of being accused of perjury; he was happy in declaring that he thought that a greater reproach than to have led his friend into a crime—the greatest crime he could commit—and to have betrayed him when he had done so. What a witness! who glowed with indignation at the imputation of perjury—and gloried in murder—for it was positive murder, if he knew the man meant to do this, to encourage him in it, to support him in it, and then to betray him. Do you feel such a man as this, a witness on whose testimony you ought to take away the life of a fellow creature? In England, had he been a witness in such a case as this, he must have been sent off the table, and the jury must have been discharged; but by crossing the sea, he is to become a good witness; and he can take away the life of a man in Ireland, though in England he could not touch a hair of his head. If the Court shall be against me and say that one witness is sufficient, I submit: but I say to you, gentlemen of the jury, examine your hearts well, and say, will you be satisfied on the evidence of such a witness, to take away the life of any man?

Earl of *Clonmell*.—You have heard what has been said by your counsel; would you wish to add any thing to what they have said?

Mr. *Jackson*.—My lord, I wish to consult my counsel whether it would be proper.

[After some conference with his counsel, Mr. Jackson said he would not trouble the Court.]

REPLY.

Mr. *Prime Serjeant.*—My lords, and gentlemen of the Jury;—I do not know that I ever in my life rose with more anxiety to discharge that duty which I owe to the public—an anxiety lest I should leave any thing undone, which that duty demanded, and an anxiety, lest in the discharge of that duty I should transgress those limits which the humanity and conscience of an advocate prescribe to him, when he speaks in a case, where the life of a party is at stake. Therefore I conjure you, gentlemen, to discharge your minds from every thing you may have heard before this day, upon the subject of the trial—from every impression, which the mention of such a crime may have occasioned, and that you will listen to the Court, who are bound to declare the law as you are to decide the fact, and take from their opinion what the law is. I have heard this subject treated for two hours past as if this trial were in Great Britain, and that you were called upon, not to decide the case upon law existing in this country where the trial is had, but as if it were had in the sister kingdom. To borrow an expression from the witness, I should feel this the severest day I ever experienced, if that were to be the case: or that I could bring myself to suspect that such language would be used, because I should be controlled by those having power so to do. There is nothing clearer, than that, by the law of Ireland, one witness believed is sufficient to convict, and I conjure your lordships with the utmost earnestness, if I am wrong in the law, that you will correct me. It will become my duty to state the evidence, and, under the direction of the Court, those facts, upon which you, gentlemen, are to form your judgment.

The prisoner stands indicted for two distinct species of high treason: first, for compassing and imagining the death of the king: next, for adhering to the king's enemies; and that I may not, by any possibility, be guilty of misleading your judgments, I shall refer in the course of the observations I shall make, to that which is acknowledged to be the first authority. The cases of compassing the death of the king, or adhering to his enemies, are the only instances in the law, where the will and intention, prosecuted by an act, whether successful or not, are equivalent to the deed. The moment the wicked intention of compassing the death of the king, or adhering to his enemies is followed by an act, which you shall believe to have been in prosecution of those schemes, the guilt is complete: the measure of the iniquity of the party is full. Wherefore for the advantage of the prisoner, for the charge is strong against him, it is necessary that the indictment upon which he was arraigned, should state all those specific facts from which the intention is to be drawn; for, as an overt act of that intention, no evidence can be given, that is not stated specifically by the indictment; and no evidence can be given, that is not evidence of the act laid. You will see, gentlemen, the advantage which the prisoner derives from this; before he is put to plead, he is apprized of every thing alleged against him; directly the contrary of that which occurs in any other criminal prosecution. The use I make of that is, that you may see whether there has been any use made by the prisoner of the notice which he had of the charge brought against him.

Having thus stated what I conceive to be the law with the utmost scrupulousness, let me state the overt acts, and see whether you are satisfied upon them. The only questions for you, gentlemen, are, whether the facts alleged were done by the prisoner? and 2dly, if done, whether they relate to the charge brought against him. I should be much better pleased, I declare most solemnly, that I did not think there was evidence to support any of the overt acts laid in this indictment, and that I am sorry to say, there is evidence for your consideration upon every one of them. You, gentlemen, will weigh it with every possible attention, the life of a fellow creature being at stake. Mr. Cockayne is the principal, but not the only witness in support of the overt acts. Nothing can make so strong an impression upon the mind of a jury as the manner, the air, and temper with which testimony is given. The counsel for the prisoner endeavoured to take advantage of that distress under which the witness laboured, as if he had been prevailed upon to interfere for the purpose of taking away the life of the prisoner at the bar. The witness said, that this day he felt as the most severe he had ever experienced—that his mind had been shaken for some time past, and you, gentlemen, saw the attempt which was made to represent this evidence as the effect of intimidation and power. But no such thing appeared. He was threatened with confinement; that was, for not signing his examination after he had made it.—He told you, he was acquitted upon the charge of perjury.—This is farther supported by evidence.—He declined to make any objections in point of law, and he was questioned as to the conversation with Nailor, who is not produced to contradict what the witness said. In this light Mr. Cockayne came forward, and though he could not take upon him to tell with what intention, Jackson came to Ireland, positively;—the overt act laid with regard to Ireland is, that he came to procure an invasion. But if you believe the evidence of Cockayne, see the conduct of Jackson upon his coming here, and see from that, whether his coming was not for the purpose imputed to him. The witness tells you, that upon their first coming to Ireland, the first conversation arose upon the politics of Ireland, and the dissatisfaction of part of the people in Ireland. He said that a person of the name of Lewins solicited credentials to show Hamilton Rowan, to give

him a confidence in holding communications with the prisoner. The witness told you, that Jackson expressed his concern at having given some of the papers for this purpose, and he wished to have them back again, as he would not trust them in the hands of others, if he had them back. He told you that there was a meeting at Rowan's:—he saw a relative of Rowan's there, who went away, after which Irish politics, and the United Irishmen were the subjects of conversation. I say, gentlemen, and I am sorry for it, that there is not a single overt act in support of which there is not evidence for the consideration of a jury. He said there were conversations about sending some one to France, and that Tone agreed to go at one time, but receded at another. He talked also of Dr. Reynolds, and also of the propriety and impropriety of giving them instructions; that the prisoner did not approve so much of Reynolds, as he did of Tone—

[Here Mr. Prime Serjeant was interrupted by the prisoner's counsel, who said they had now a witness of the name of Watson to impeach the character of Cockayne.]

Mr. *Solicitor General*.—My lords, in the absence of the Attorney General,* it is my duty to resist the examination of this witness. I cannot submit to such a precedent being established, and the more so as every proceeding in this trial, and the solemnity, will form a precedent for future cases. The witness they called to the fact alleged, when they had stated their case for the prisoner, was William Humphries, who being called did not answer, and then they had just learned that he was gone to the Isle of Man. They did not call any other person—nor did they say that they had any witness of the name of Watson, which shows this attempt to be an after-thought—a thought fabricated after the counsel for the prisoner had spoken to evidence, and whilst the counsel for the Crown were proceeding in reply. Whatever may be the humane disposition of the Court, I trust that they will not dispense with that rule and order of proceeding which the wisdom of your venerable predecessors the judges of England and Ireland have made part of the law, wisely regulated for the investigation of truth, and a departure from which, under such circumstances, would lead to confusion, may be introductory of perjury, and subversive of truth.

Earl of *Clonmell*.—I confess I think it is extremely irregular, and I tell you why. See what Mr. Curran, who stated the case, said—"The only evidence I shall produce will be a witness to contradict Cockayne"—that witness did not attend. However, where the life of a man is to be affected, I will go as far as I can in yielding to his desire, even against what I conceive to be the rule, particularly as my brothers are disposed to grant the indulgence.

Mr. *Curran*.—My lord, I feel that it would not be a stretch of the rule to say, "Sir, you are precluded from giving farther evidence." But I proposed to call the witness from a conviction that I should not do my duty without proposing to call him when it was mentioned to me.

John Watson sworn.——Examined by Mr. *Curran*.

Do you know John Cockayne?—I have seen Mr. Cockayne the attorney of London.

Do you know him?—I do; I see him now.

Did you know him in London?—I did, by his character, for near two years, while I was a licensed lottery man there.

You knew his character?—I have heard his character.

Was it a good one or a bad one?—I knew his character in his profession as an attorney, not his private character as a man.

Mr. Justice *Downes*.—That might go to his being a good or a bad attorney.

Do you know his general character?—I do as to his practice.

Do you mean as to his morality and integrity?—There was neither morality nor integrity in it.

Mr. Justice *Downes*.—His general character as an attorney is not the point in issue.

Witness.—There was nothing in his practice that had morality or integrity; it appeared from his connexions; he was connected with informers.

[The counsel for the crown proposed to cross-examine this witness.]

Court.—We cannot permit it, because this man knowing nothing of the private character of the witness, he could not have known any thing as to the material point to be inquired, whether the witness was to be believed upon his oath. What do you mean by his private character?—His private dealing, about which I know nothing.

How long have you been in this kingdom?—Twelve months.

How long since you gave any information about this matter?—I was in court, and a gentleman here having heard me mention Cockayne's name some time ago, called me forward, I did not know for what purpose.

The witness was ordered to retire.

Mr. *Prime Serjeant* continued.—Gentlemen, the first overt act is, that he came to Ireland to procure information of the king's subjects; the second is, that he endeavoured to incite an invasion; but it is irresistible as to the third, if you believe that the prisoner, on the 21st of April did excite, exhort, and counsel, and as far as in him lay, did encourage Theobald Wolfe Tone to go into parts beyond seas, to France to represent to the ruling powers

* Mr. Attorney General had retired to take some refreshment, it being at this time near two o'clock on Friday morning.—*Orig. Ed.*

there, that divers subjects of this kingdom were disaffected, &c. Gentlemen, if your notes and mine differ upon this evidence, I beseech you to pay no attention to mine. But as I have taken it, the witness has heard alternately in conversations from Jackson, Rowan, Tone, and Reynolds, that there was a scheme to send Tone or Reynolds, with a plan to Paris. That expressions of encouragement were used to Tone by the prisoner and Rowan. That the prisoner was present at some encouraging conversation by Rowan; and upon some conversations with Tone, who made objections on account of his wife and family, and the loss that might accrue by missing opportunities in Ireland. Jackson told him, he would find the French a generous people. Was it necessary, gentlemen, to have recourse to the French upon the subject of manufactures, or a law-suit? No, gentlemen, it was a public measure, and the reward was to be public also. It appeared, gentlemen, in evidence, that Jackson came into Ireland with a fictitious name, that of Thomas Popkins, which he used in his correspondence. It will be for you to discover, and ascertain for what purpose the parties involved the matter in these obscurities. Why, in one letter the subject should be manufactures, and in the next, the subject should be law. The 4th and 5th overt-acts are a conspiracy with others to procure a person to represent to the French, the dissatisfaction of part of the people, and to excite an invasion. With respect to these two overt-acts, I think there is a matter in the correspondence of Jackson, when particularly adverted to, for the jury to consider whether there be proof of them or not. But, under the correction of the Court, I say, that if a single overt act be proved, clearly connected with the treason with which the prisoner is charged, there is sufficient to warrant you to convict him. But I acknowledge that if on the other hand, you believe none of them are proved, the law and your conscience call upon you to acquit him.

The 6th overt act is, that on the 21st of April a letter was written to William Stone to reveal his intention to send a person to France to represent the state of this country. The evidence of Cockayne was, that Tone agreed to go, and afterwards receded from that agreement. The letter was written on the 21st of April, and when he began, it was conceived that Tone was to go: and in this letter are those remarkable words; "Let them know where I am, and that I am doing every thing I can to serve Mr. Nicholas, and that I am procuring a person to carry the covenants and leases;—a few days will decide whether he will go or not. I have written the above during the negotiation with the person; he has this morning, 24th of April, decided that his private affairs will not let him go."—*If, gentlemen,* you believe the evidence *of Cockayne—if you* believe that this letter *was written—if you believe* that this charge in the indictment is proved, you will consider whether it is connected with either or both of the treasons with which he is indicted.—"I wish you would write the first post day, and tell Mr. Nicholas that to-morrow I send two letters for him, containing opinions thoroughly considered, and well digested by counsel here."—This was begun on the 21st of April, and the letter appears to be concluded on the 24th, when it was put into the office on that evening, containing the paper of the state of the kingdom, as appears from the evidence of De Joncourt.

The 7th overt act is grounded upon the same evidence; it is the same act laid to be by a person unknown:—if that alone had been proved, and you are of opinion that it relates to the treason charged, it will warrant you to find him guilty. The letters were sent to the post-office by Cockayne; they were subscribed by the directions of the prisoner. They got into the hands of Jackson himself, and it was for him to account if they were put in by other means. The letter proved by Cockayne to have been in the hand-writing of Jackson, and found among the papers of Stone, requesting that the papers before left might not be made use of, shows that Jackson came to Ireland, having prefixed the correspondence with fictitious names. He forbade this afterwards.

The 9th overt-act is a letter written to Benjamin Beresford, requesting him "to inform certain persons, &c.—You are requested to see Madgett directly, and inform him that two letters, with the opinions of the greatest counsel," &c.—That very night these two letters were intercepted in the office. On the morning of the next day Cockayne applied to Mr. Hamilton to know whether the letter, &c. had been intercepted, and furnishes the original paper in the hand-writing of Jackson, from which the copy was made. Hamilton took a press copy of it, which being imperfect, it was objected to by the prisoner; the copy was written in the prisoner's presence, and by his directions sent to the post-office.

The 11th overt-act is, that he sent information to France. This, gentlemen, goes as well to the papers which were forwarded as the others which have been produced in evidence. Now, gentlemen, see whether any man living, of the most scrupulous and tender conscience, can hesitate to pronounce what the object and motive of such papers were. Look at the words expressing the situation of Ireland, and inviting "an invasion in sufficient force." Here is nothing of trade or manufactures; nothing of lawsuits or covenants or leases. If you believe that this was written by the procurement of Jackson, to be forwarded by his procurement, as Cockayne has sworn, to the French people, that generous people, who were to support the Irish nation—

Mr. Jackson.—I beg Mr. Prime Serjeant's pardon, there is no evidence that the paper was to be forwarded.

Mr. *Prime Serjeant.*—I beseech the prisoner at the bar, if I have mistated, even to his feeling, what the case will not warrant, to apprize me of it, and I will retract it with more satisfaction, than any assertion I ever made in my life. I intended to say, that if the jury believe it was written by the procurement of the prisoner, and intended to be forwarded, though intercepted, the crime in point of law is consummate.

Mr. *Jackson.*—The indictment states, that the letter was to be sent to Benjamin Beresford. There is no such thing upon the superscription.

Mr. *Prime Serjeant.*—The 10th overt-act does not state it, but the 9th does state that the letter was to be sent to Benjamin Beresford—the letter in evidence *à Monsieur Beresford.* It is matter for the jury to consider, whether the evidence proves the charge in the indictment. If the jury believe that this letter was in the custody of Jackson and written for the purpose imputed to him, it is a new overt-act. I do agree with the gentlemen concerned for the prisoner that the evidence of Cockayne, under the particular circumstances under which it comes forward, does come so infected as not to have that weight, which it would have, if those circumstances did not exist. But I say his testimony is corroborated by such a variety of circumstances as establish the truth of it. No person is brought forward to disprove the hand-writing of Jackson, as proved by Cockayne. With respect to Mr. Tone, it will be a subject for your consideration, gentlemen, whether it was competent for the gentlemen concerned for the prisoner to produce him. If he had been produced by the crown, he might very well object and say, "I will not accuse myself." They had notice by the indictment that his testimony might be material, and could have come prepared. If there be weight in these observations, your lordships and the jury will give them a proportionate attention—if there be not, you will throw them out of your consideration.

Gentlemen, I feel a degree of satisfaction in my mind, arising from this circumstance, that I am not conscious of having made an observation which the case will not warrant. Gentlemen, if you believe the evidence, you have a duty to discharge to yourselves, your country, and your God; and if you do not believe it, your duty is to acquit the prisoner.—If you have such a doubt, not such as womanish fears may suggest, but such as your sober judgment may, you will give it due consideration and lean to the side of mercy. I am sure the world will be satisfied with your verdict after you have given the case such consideration.

Mr. *Jackson.*—I feel a weight upon my mind to make an observation or two upon what Mr. Prime Serjeant has said upon the superscription of the letter to Monsieur Beresford. *One was directed to Basle* in Switzerland, a neutral power; and another was directed to Amsterdam, which at that time was at war with France. The places to which the letters were directed, were either neutral places, or at war with France:—the letters were not sent to enemies of England. There is nothing but constructive evidence that these papers were intended for the enemies of Ireland. This, my lords, is all I have to say.

SUMMING UP.

Earl of *Clonmell* (Lord Chief Justice.)—Gentlemen of the jury; In this case of the King against William Jackson, clerk, the indictment against the prisoner is founded on the statute of treason, 25 Edw. 3rd, chap. 2, a statute that has been considered as one of the greatest protections to the subject that ever passed; as stating and precisely ascertaining what shall be treason to affect the life of the subject, to prevent any unascertained crime of that nature from affecting him.

The two branches of treason comprehended in this indictment are, the compassing the death of the king, and adhering to the king's enemies. I would now mention a principle or two that have never been doubted; one is, that a conspiracy to levy war against the king or his government, is evidence of compassing the death of the king. This is mentioned in the works of all the great crown lawyers; in 4 Bl. Comm. 82. 3 Inst. 9. Foster's Cr. L. 212, 213. You will understand me when I say, that evidence of conspiracy to levy war against the king or his government, is evidence of compassing the king's death; and the reason justifies the principle; for the result of such a conspiracy is probably the king's destruction, either by his death or his imprisonment, which may lead to his death; and for that reason it is applicable as evidence of compassing the king's death. Again,—another principle is, that giving intelligence to the king's enemies, is evidence of the second branch of this indictment, the adhering to the king's enemies. This is a clear and simple species of high treason; each part of the indictment charges a clear high treason, not constructive nor involved. It has been fortunate in this country, though it may make the difficulty the greater on the judges at present, that there is scarcely an instance in the recollection of the oldest lawyer, of that crime having been committed in this kingdom, and a prosecution for it; but a case has been determined in the court of King's-bench in England, in the year 1758, resembling the present in many instances—the King against Dr. Hensey,* who was convicted of high treason, and judgment of death pronounced on him; in that case, lord Mansfield, with the concurrence of his brethren, followed by Foster, and as able assistants as the chief justice had at any time, lays down the law thus:—"Levy-

* Reported in this Collection, Vol. 19, p. 1341.

ing war, is an overt-act of compassing the death of the king.—An overt-act of the intention of levying war, or of bringing war upon the kingdom" (and those words are very material), "is settled to be an overt-act of compassing the king's death. Soliciting a foreign prince even in amity with the crown, to invade the realm is such an overt-act. And so was cardinal Pool's case. And one of these letters is such a solicitation of a foreign prince to invade the realm. Letters of advice and correspondence, and intelligence to the enemy to enable them to annoy us or defend themselves, written and sent in order to be delivered to the enemy, are, though intercepted, overt-acts of both these species of treason that have been mentioned; and this was determined by all the judges of England in Gregg's case:* where the indictment (which I have seen) is much like the present indictment. The only doubt there arose from the letters of intelligence being intercepted and never delivered; but they held that that circumstance did not alter the case."—And, gentlemen, to justify that doctrine, one obvious reason must occur to all your minds; that no person could be indicted with effect for sending letters, if the law was that they must have gone to the place for which they were intended; because in that case they could not possibly be laid hold of for the purposes of prosecution: it would be grossly absurd. Another paragraph in that case I will read to you as bearing on the facts in this case. "As to the fact in the present case, the jury are to consider whether they were written by the prisoner at the bar, in order to be delivered to the enemy, and with intent to convey to the enemy such intelligence as might serve and assist them in carrying on war against this crown, or in avoiding the distinations of our enterprizes and armaments against them."

I think I have now laid down certain principles and clear positions in your minds as far as I have gone, which will go a great way in directing you in the consideration of this case; I will now state to you how this indictment is laid, and go through the different overt-acts stated to support the intention; for that intention, if supported by the acts stated or any of them, will complete the crime against the prisoner; any one of them, if you believe the intention, and the overt-act to be proved, will complete the charge against him.

I shall endeavour, feeling great difficulty from my own inability at this late hour of the night, to collect the facts in the best order for your consideration; it will be your verdict, and not the verdict of the Court; we are responsible for the law, it is our duty to state the law, and I have laid down principles from great authority; I shall only add to them, that by the common law of both countries, one witness alone is sufficient in these cases: *if you believe* that witness, and if he swears to the facts that are laid, and if they are sufficiently stated to be the acts of the prisoner in support of the intention charged, it is the opinion of the Court, that by the common law a second is not necessary, and no statute on the subject to contradict that, exists in this country; and here, let me say how the law appears to be in that case; it was not only the opinion of judge Foster, one of the honestest and greatest lawyers that England ever knew, and who ranks with lord Hale; but also, as appears from his crown law, page 233, it was the general opinion, that at common law, one witness was sufficient in the case of treason, notwithstanding lord Coke's opinion to the contrary: the opinion of judge Foster is the same with serjeant Hawkins, and though Hawkins is only a compiler, and states many doubts, yet he is certainly one of the most faithful and laborious compilers that we have. Let me now state the facts from the words of the indictment. William Jackson is charged, for that, at a time when open war existed between France and England—of which Foster says, that public notoriety is sufficient evidence—he did, knowing the premises, but contriving the tranquillity of the kingdom to disquiet, the government to subvert, and the king of and from the crown to depose and deprive, and to death and final destruction to bring and put; did on the 3d day of April, in the 31th year of the king, &c. at the parish of St. Andrew, &c. traitorously compass, imagine, and intend the king, of and from the crown of Ireland, to depose and wholly deprive, and the king to kill, and bring and put to death. This is the general charge; that he imagined and compassed the king's death, and at that time and under those circumstances; and then in the first count, different means are stated: first, that he landed in Ireland for the purpose of procuring information concerning the situation and disposition of the king's subjects: now, as to the disposition of the king's subjects, that part of the charge will be more in your mind when you come to consider what I shall lay great stress on, the state of the nation that was sent over. It is next laid, that the prisoner at the bar did consult to levy war in the kingdom of Ireland, against the king; and if it be proved to your satisfaction, that he did conspire to levy war, and to invite the French power to invade this kingdom; it is evidence in support of this count It is next laid, that the prisoner did incite and endeavour to persuade one Theobald Wolfe Tone, to go into foreign parts to represent to the French powers that divers subjects of Ireland were dissatisfied with the government, and to persuade them to invade Ireland; this also will be applicable to part of that statement which I shall have occasion to dwell on hereafter. The next act laid is, that the prisoner conspired with other persons to procure and provide a person to go beyond the seas—it is to the same purpose, but more general than the former, which ap-

* *Antè*, Vol. 14, p. 1371.

plied to Theobald Wolfe Tone, only. Next, that he did conspire with others, to send a person to France to give information of the state of Ireland—and this also is evidence, if proved, of compassing the king's death. It is next charged that he did compose and write, and cause to be written, a letter to William Stone in England, and did by that letter instruct him to disclose to the persons having the powers of government in France a scheme of the prisoner's to send a person to France to satisfy said persons of divers subjects of Ireland being ready to negociate with them, for an invasion of Ireland, but that the private affairs of such person would not permit him to go, and therefore that the prisoner would send a statement of the situation and dispositions of the people of Ireland—this is evidence also of compassing the death of the king.—The next act laid is to the same effect of the last, but put more generally, and this and all that I have mentioned, go in support of the first count. The next charge is, that the prisoner delivered and caused to be delivered the said letters into the post-office here; and if this be proved it falls under that head described by lord Mansfield in Hensey's case, and that act would be sufficient to make him guilty of compassing the king's death. The two next overt-acts laid are, the writing a letter to Benjamin Beresford, and the delivering that letter into the post-office. It is next laid, that the prisoner composed and wrote, and caused to be written divers instructions, inviting the king's enemies to invade Ireland; and this seems to me very material for your consideration: it is stated that among other things the following particulars are contained, "that the dissenters are steady republicans."—I will not repeat this paper, as you have already heard it more than once. The next charge is, that the prisoner wrote several other accounts and instructions concerning the people of Ireland, and all these accounts caused to be delivered into the post-office.—And, in the next charge, those words which I have stated are again repeated. These are the charges, all of which are applicable to the first count; and if any of them are substantially proved, and you believe it, it will lead you to find the prisoner guilty. These charges are applied to the second branch of the indictment, and support it, as well as the first, if proved. I shall now take up the evidence in the order it was laid before you, and it will be for you to see whether the intentions, the purposes, and the acts proved, be the intentions, the purposes, and the acts of the prisoner Jackson.—Any one of the charges, if proved, will support either branch of the indictment, and I shall make such observations as occur to me from time to time.

John Cockayne was first produced—he swears that he has known the prisoner Jackson ten years; it has been said that it appeared from Cockayne that Jackson came hither *to furnish some provisions* for the French, and not with any treasonable design—but Cockayne's evidence was, that when he came over, he did not think Jackson would put himself into his present situation, or that he should ever be a witness against him, which he swears he is very sorry for, if you believe him. They dined, he says, at counsellor M'Nally's; counsellor Simon Butler dined there; the conversation turned on politics at large, those of the day, and those of the Irish nation; it went to the dissatisfaction of some part of the kingdom—now that may be material, if you believe the witness, when you come to consider the state of the nation, when the dissatisfaction of the king's subjects is mentioned. The witness then says that he saw Mr. Lewins at Hyde's coffee-house, that he asked Jackson for some papers to deliver to Mr. Rowan, to convince him, that he was a man with whom he might converse with confidence; on this part of the evidence, one observation arises; as soon as these men came into this country, if you believe Cockayne, Jackson furnishes Lewins with certain documents, in order to convince Rowan that he was a man to be confidentially spoken with—of what were they to speak? why was he to converse with Rowan, a prisoner in Newgate? and these were such papers too, that Jackson said if he had had them back, he would not have entrusted them to Lewins again—these papers were asked by Lewins with that view, but whether the prisoner gave them with that view, is a conclusion for you to draw; this passed a few days after Jackson's arrival here. The witness and Jackson went together to Newgate soon after—the conversation turned on Irish affairs—on the United Irishmen—on some dissatisfactions among the people in some parts of the kingdom; it does not appear that any part of that conversation was about manufactures or lawsuits, the topics alluded to in some of Jackson's letters—it was a political conversation—I am not saying that it was not possible such a thing might exist—far from it—there may have been such things as lawsuits and differences in Jackson's family, and Rowan not know a word of the matter. There was another meeting there, Tone read a paper, but the witness did not hear it; there was something about a plan to send Tone to France, and, if you believe the witness, Jackson approved of Tone for the purpose, more than of Reynolds; this supports what he said about the plan of sending a person to France: the witness said they were to go with some papers—with written instructions for the French; that he heard this alternately spoken of by Jackson, Rowan, &c. and that he understood it was to Paris that they were to be sent.

On this letter (No. 2) marked with a large cross, and contained within two covers, in each of which there was a recommendation to forward the enclosed, I will make one observation; I wish not to dictate, I wish to

will give you theirs—I think by the common law of this kingdom, two witnesses are not necessary. The next objection was, to show that Cockayne was a person not to be believed upon his oath, and they endeavour to blacken him by showing what they called the baseness of his conduct, being the attorney and friend of the prisoner. To that it may be answered, I do not say it is the case, that he was more likely to know the circumstances: there does not appear to have been any grudge or quarrel between them:—but, however, the case depends so much upon the credit of Cockayne, that unless you do believe him, you ought to acquit the prisoner. I wish not to go farther into the evidence as to what Carleton said making a second witness, being of opinion, that a second witness is not necessary. You, gentlemen, will consider the whole case, both upon all the evidence which has been given and all the papers, which will be sent up to you. I do not wish to say much in the way of observation;—however it is my duty to say something as it arose upon my mind. It is somewhat remarkable, that Jackson did not produce witnesses. He was arrested in April 1794. He has had the same opportunity of preparing for his defence as every other prisoner, and no person has been produced.

Mr. *Jackson*.—My lord, the last time the trial was to come on, the crown put it off on account of the absence of Cockayne. I had two witnesses then; William Humfries and George Dodwell. The former is an ensign in the city of Dublin regiment, who could have disproved the declaration of Cockayne as stated by Mr. Curran. Mr. Humfries has been in the Isle of Man. If your lordship would hear my agent, he would throw light upon the transaction

Earl of *Clonmell*.—I would wish to do as much as possible for you; but I cannot strain the law.—What witness would you examine?

Mr. *Jackson*.—I had desired my counsel to examine my agent. I would examine my agent. I would examine him now to prove that Cockayne said he had papers of mine in the morning of my arrest, which he denied upon the table here.

The *Counsel for the Crown* stated that Cockayne had left court, it being, at this time, past three in the morning, and could not now be confronted with any witness produced.

Earl of *Clonmell*.—It is irregular to examine this witness, who has been in court during the whole trial, and heard Mr. Cockayne give his testimony. If this man could have contradicted that witness he ought then to have mentioned it. However examine him.

Edward Crookshank Keane sworn.—Examined by Mr. *Curran*.

Had you any conversation with Cockayne touching any paper found upon the table in *Mr. Jackson's* room?—I had: the day I was employed by Mr. Jackson, Mr. Cockayne called upon me, and said it was rather lucky, that the papers found in Jackson's room, were found there. He said he was the friend of Mr. Jackson, and wished to give evidence, —he dined at my house for that purpose. He said he had these papers a long time before the arrest:—he had them till twelve o'clock the night before the arrest, and that night he put them in the room where Mr. Jackson slept. I mentioned this to the counsel, but did not wish to appear as a witness, and would not now but for the earnest desire of the prisoner.

Cross-examined by the *Solicitor General*.

You called a witness of the name of Humfries?—I did.

Did you not know that Humfries was gone to the Isle of Man, at the time you called him?—If you press me for my belief, I believe he was, but he was summoned; I saw him at the quarter assembly; he was served with the summons last Tuesday, and at that time I understood he was not gone.

You heard the examination of Cockayne?—I did.

It was not till a considerable time after, that he was called upon to be examined to the fact, which you contradict?—I recollect that very well; but it was owing to what Mr. Carleton said relative to some of the papers.

Where is Theobald Wolfe Tone?—I do not know.

Do you not believe he is within reach of the process of the Court?—where is he?—I believe he is not in Dublin.

Did you converse with him?—I never saw him more than three or four times.

Did you know Hamilton Rowan?—I did.

Did he not escape immediately after Mr. Jackson was arrested?—I do not know the exact time; I believe it was the 1st of May.

Did you not hear the whole examination of Cockayne?—Not the whole, for I was going back and forward.

Did you not hear him say, that he had a letter of Jackson's in his possession?—He did.

Where is Mr. Lewins?—I believe he is in England; he is gone there about some business of his uncle, Mr. Broughall; I believe the crown might have had his attendance and Mr. Tone's too:—but I have heard there was a compromise with Mr. Tone by government that he was not to be prosecuted.

From whom did you hear it?—I am not at liberty to mention. I first heard it upon a consultation of barristers, respecting Mr. Jackson's business; but I heard it in such a manner, that I believe it.

By virtue of your oath, do you believe that is the reason he is not prosecuted?—I do believe it.

When did Lewins go to England?—Near a month ago.

Is he not your apprentice?—Yes.

Did you not know from the indictment that Tone was a material witness?—I cannot say to that.

Do not you believe that there were meetings at Newgate between the prisoner, H. Rowan, Tone, and others, which have been stated by Cockayne?—I believe they had some meetings.

Earl of *Clonmell.*—This is not perfectly regular. The agent is not usually received as a witness for his client in such a situation as the present prisoner, and nothing but that sort of leaning for the accused in such a situation could induce me to submit. We have been going too far.

Mr. Justice *Downes.*—Gentlemen of the Jury—I agree with my lord on the law of this case, and after the full statement which you have heard, I shall not trouble you with any observations on the evidence.

Mr. Justice *Chamberlaine.*—I am perfectly of the same opinion with my lord Clonmell, on the law of this case; and in particular, I agree that two witnesses are not necessary to prove an overt-act of high treason in Ireland—they are necessary in England by force of an act of parliament, which never was enacted in this kingdom. Cockayne is certainly the only witness to prove the most material facts in this case; but it is most essential that you shall consider whether his evidence is or is not confirmed by the papers which have been read, one of which, it is true, has been sworn by Cockayne alone to be the hand-writing of the prisoner, but two others have been sworn by another witness, Mr. Carleton, to have been found on the table of the prisoner at his bed-side, at the time he was taken. If you believe that those two papers, purporting to be a statement of the affairs of this kingdom, were found in the possession of the prisoner, then you are to consider whether the fact of two precise counterparts thereof being found in the post-office (as Mr. De Joncourt has sworn) does or does not confirm what Cockayne has sworn, as to this material part of the case, viz. That those papers so found in the post-office were written by the direction of the prisoner, with a declared intention that they should be put into the post-office. But in considering the overt-act in proof of which two papers so found in the post-office have been read, it is of the essence of the case that you shall be satisfied that this statement of the situation of affairs in Ireland not only was sent, or put into the post-office by the directions of Jackson, but that his intent therein was, that that statement should be delivered to the governing powers in France, as is charged by the indictment.—The prisoner has observed that one copy was directed to Amsterdam, in a country then at war with France, another to Hamburgh (a neutral port), and therefore you will consider whether those statements were intended merely as information to the persons to whom they are addressed at those places, or whether they were to go farther -and in this part of the case it is fit that you should *consider the* paper containing the directions, sworn by Cockayne to be in the hand-writing of the prisoner, and by another witness to have been found in the possession of Stone, who is sworn to have been Jackson's correspondent. And in determining upon the intent of the prisoner in putting or causing those two statements of the affairs of Ireland to be put into the post-office (if you believe he did so), it is material to consider part of Cockayne's evidence. You will recollect the conversation of the prisoner with Mr. Hamilton Rowan and Tone at Newgate, about sending Tone with written instructions to be conveyed to Paris—what those instructions were, Cockayne could not tell, although he had seen the paper containing them. He told you that Tone at first agreed to go, but that he afterwards retracted, giving certain reasons, whereupon Cockayne told you, that the prisoner gave encouragement to Doctor Reynolds to go, but that the result was, that neither went. And you will consider whether it is or is not to be reasonably inferred that the instructions spoken of by those persons at Newgate, were the same with those that were found (according to the evidence) in a few days after in the post office, precise counterparts whereof are sworn by Mr. Oliver Carleton to have been found on the prisoner's table, at the time when he was apprehended;—then you will consider whether upon finding, that neither Tone nor Reynolds would go upon this mission, the prisoner resorted to the post-office, and took that method of sending the instructions. It was remarked by the prisoner himself, that of the two places to which the papers containing "a statement of Irish affairs," were directed, one was at war with France, and the other a neutral port.—And I agree that if you are not satisfied that those instructions were intended to be forwarded from one of those places to those who possessed the government of France at that time, you cannot make any thing of this, the most material overt-act that is charged by this indictment.

At a quarter before four o'clock on Friday morning, the jury retired, and after being enclosed about half an hour, returned with a verdict of GUILTY.

Foreman.—My lord, I am directed by the jury to recommend the prisoner to mercy, from his years and situation in life.

Court.—Have you any doubts in your minds with respect to the evidence?

Foreman.—Not the least.

The prisoner was then remanded, and the Court saying, that four days must intervene, before judgment could be pronounced, he was ordered to be brought up on Thursday, April 30th.

Note.—Soon after Mr. Attorney General began the statement of the case, Mr. Curran applied to the Court, to have the witnesses for the Crown removed fro

the hearing of counsel. Mr. Attorney General consenting, the order was accordingly made.

Note also.—That Mr. Jackson, during the trial having said, he could not hear the witnesses, the Court directed that he should be brought forward from the dock nearer to the table.*

Thursday, April, 30, 1795.

This day Mr. Jackson was brought up for judgment.

Clerk of the Crown.—Gaoler, set the rev. William Jackson to the bar.

Hold up your right hand.

Mr. Jackson accordingly held up his right hand.

Then the clerk of the crown proceeded to read the indictment.

Mr. *M'Nally.*—My lords, Mr. Curran is not yet come, but any gentleman, as *amicus curiæ* may suggest to the Court. It is so ruled. It is Mr. Curran's wish that the caption may be read, as well as the other parts of the indictment. It is Mr. Curran's wish it should be read, it is not a suggestion of mine.

Earl of *Clonmell.*—From the prisoner's apparent ill state of health, if any advantage is to be taken from reading the indictment, I should be glad it may be read through. But seeing his ill state of health, I would not wish to increase his labour by waiting. But do as you please.

Mr. *M'Nally.*—My lord, let the clerk of the crown read three or four lines.

Court.—Do so.

Mr. *M'Nally.*—My lords, by the statute of George 2nd in this country, founded on the statutes of William and Anne in England, regulating trials of high treason, the prisoner charged with that offence is entitled to a copy of the indictment. It has been ruled that that includes the caption, and it is also ruled, that if the prisoner does not avail himself of the objection previous to plea pleaded, he loses the benefit of it. Now, my lords, this gentleman was served with a copy of the indictment in the usual time, but there was no caption annexed to the copy that was served on him, but as it has not been usual in cases of felony to make up the caption till after the conviction, it is possible, that there may not be any caption in this indictment. I wish Mr. Jackson may be convinced whether there is any caption on the record or not. If there had been such, in a former stage of the prosecution, the smallest variance between that and the indictment would be a good ground of objection. It is the prisoner's wish to see that the caption is on the record.

Earl of *Clonmell.*—I see nothing in the objection. You should have had a copy of the whole record if you had applied before.

Clerk of the Crown.—The record is not made up; and the caption not being part of the indictment, does not appear until the indictment is put upon the record.

Earl of *Clonmell.*—As you are circumstanced, you cannot take advantage of it.

Mr. *M'Nally.*—The prisoner then demands to know whether there be a caption on the record.

Earl of *Clonmell.*—I wish the counsel assigned Mr. Jackson would appear.

Mr. *M'Nally.*—I wish so too, my lord, for feeling as I do at present, I am little able to go on.

[The Court waiting some time for the counsel for the crown, Mr. Curran came in in the interval.]

Earl of *Clonmell.*—If there be nobody to pray judgment on this man, he must be remanded.

Mr. *Curran.*—My lords, I conceive that if the prisoner thinks he has reason to make any motion in arrest of judgment, that this is the time.

Earl of *Clonmell.*—The first step in such a business is for the attorney or solicitor-general, or some other of the king's servants to pray judgment on the person who is called up: that was the case of Dr. Hensey, and several other cases in the State Trials.

Mr. *Curran.*—I speak not of the gentlemen conducting the prosecution; I speak merely as between the prisoner, the Court, and the record; I only mean that whenever it shall be the pleasure of the Court to go into this business, every thing shall continue in the same situation; that there shall be no alteration in the record.

Earl of *Clonmell.*—It may be a full answer to what you say, that the Court would not be ancillary to putting your client into a worse situation, whenever the matter comes on.

Mr. *Curran.*—It is, my lord, a complete answer.

[Here Mr. Attorney General came into court and apologized for his absence, which was occasioned by indispensable business elsewhere.]

Mr. *Attorney General.*—It is now my duty to call on the Court to pronounce judgment on Mr. Jackson.

Clerk of the Crown.—Set the Rev. William Jackson forward.

[Mr. Jackson was set forward.]

Clerk of the Crown.—Hold up your right hand. [Mr. Jackson then held up his right hand, but in a short time let it fall, being to all appearance in a very feeble state.]

[Here the indictment was read.]

Clerk of the Crown.—Upon this indictment you have been arraigned; upon your arraignment have pleaded Not Guilty, and for trial have put yourself on God and your coun-

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* See the Case of John Horne Tooke, pp. 6, *et seq.* of this Volume.

try, which country hath found you Guilty—What have you now to say why judgment of death and execution thereon should not be awarded against you according to law?

Mr. *Curran.*—I humbly move that the whole of the record on which Mr. Attorney-General has prayed judgment be read over.

Earl of *Clonmell.*—Mr. Attorney General, you hear what is moved.

Mr. *Attorney General.*—In the case of M'Dermott,* I recollect the same application was made, and the Court held them not entitled to it.

Mr. *Ponsonby.*—That was a case of felony; but in a case of treason I conceive we are entitled.

Mr. *Attorney General.*—I do not see what difference that makes; the statute does not make any.

Mr. *Ponsonby.*—We wish to have the whole, the caption as well as the indictment, read; in case of treason, the prisoner is entitled to a copy of the caption as well as of the indictment.

Mr. *Attorney General.*—I acknowledge they had a right to have a copy of the caption, and therefore they have a right to have it read.

[The Clerk of the crown read the caption.]

"Pleas before our lord the king, at the king's courts of Trinity term, in the 34th year of the reign of our sovereign lord George the 3rd, by the grace of God of Great Britain, France and Ireland, king, defender of the faith, and so forth. Witness, John earl of Clonmell. H. and R. Conway. County of the city of Dublin to wit. Be it remembered, that on Friday next after the morrow of the Holy Trinity in this same term, before our lord the king in the king's courts, upon the oath of twelve jurors, honest and lawful men of the body of the county of the city of Dublin, it is presented in manner and form following, that is to say"—

Mr. *Curran.*—Will you allow us to look at the record?

Mr. *Attorney General.*—No, you have no right to it. As to the objection of having no copy of the indictment, it comes too late now, after pleading.

[Clerk of the crown, by desire of the prisoner's counsel, read the caption again.]

Mr. *Curran.*—I am one of the counsel assigned to the prisoner: there is no doubt that the act does give him a right to have a copy of the whole indictment, served on him in due time before trial, and no doubt also, that has been considered as extending not only to what is generally called the indictment, but to the caption also, and it appears to be the constant usage to serve the parties with a copy of the caption as well as of the indictment properly so called. I need not cite any authority for this; it is to be found in the third page of Foster. I did understand that before I came into court, the officer said there was no caption; the fact however is, that my client has never had any copy of it.

Mr. Justice *Downes.*—You do not exactly state what the officer said; he said the caption made no part of the indictment.

Mr. *Curran.*—The fact is, that the prisoner has had no copy of it; and of that fact, if you think it necessary, he is ready to make affidavit. I know what may be said in answer to this objection, so far as it is an objection.—Foster does say, that if the prisoner pleaded without a copy of the caption he is too late afterwards to make that objection or any objection turning on a defect in the copy; for by pleading he has admitted a sufficient copy. Now, my lords, having learned that the prisoner was not served with any copy of the caption, it was supposed that there was not any, and therefore it was thought improper to say any thing about the matter before; it was conceived by the prisoner and his counsel, and rightly, that there must be such a record as on the entire of it would warrant the judgment to be pronounced by the Court; reading this caption, such as it is, is a surprise on the prisoner and his counsel; they have therefore no opportunity of considering, on the foot of the caption as read, and of which they had no copy, whether there may not arise an objection that might warrant an arrest of judgment. One objection strikes me on reading it—it does not name the jurors by whom the bill of indictment is supposed to have been found. The caption of the indictment in the case of the rebels in 1746 does name the jury. If it should appear to the Court that a man has been brought to trial and convicted where he has not in fact had the advantages which the law gives him for his information and direction, it would be for the Court to consider whether by pleading over in chief, he shall be conceived to have waived those advantages altogether; that he has waived them in part is certainly true; he has waived them so far as regards the correctness of the copy; but whether it would follow that his pleading over is an admission that he had a copy in fact served on him, will be for the Court to consider. Your lordships were pleased to intimate some inclination to let the prisoner be remanded and brought up some other day.

Earl of *Clonmell.*—All the Court meant to say was that they would yield to necessity.

Mr. *Curran.*—I did not mean to press it unless your lordships were inclined from necessity; but there is one reason rather than any other, on which you might think it ought to be done; the prisoner has been most violently indisposed all day; he is at present in a state of body that renders any communication between him and his counsel almost impracticable; he has every symptom of malady and disease about him, as you might have seen when he was put forward.

* This case will be found in the first Vol. of Ridgeway, Lapp, and Schoales's Irish Term Reports, 178.

Mr. *Ponsonby*.—The names of the grand jurors ought to be set out in this and every other case of the same kind; if the persons who found this bill were unqualified to act as grand jurors, it is no indictment. I could not have made this objection before, never having seen a copy of the caption; your lordship will let us have time to consider this objection.

Mr. *Attorney General*.—The application to your lordship is, to remand the prisoner, in order that he may have an opportunity of considering the objection that is now made. I am sure, to indulge my own feelings I should be happy to grant what he desires; but it seems to me an application very needless, and what will produce no fruit. The caption is a plain one, and he has pleaded to it as sufficient, and has been tried on it; I hope you will now put the gentlemen to argue their objections, as the rule always is to argue motions in arrest of judgment when they are made.

Earl of *Clonmell*.—They have stated their reason; what do you say as to the caption not having the names of the jurors?

Mr. *Attorney General*.—I say it is not necessary, and has not been the practice; it is a record of the Court which states that the jurors for our lord the king, have found a bill of indictment; when it is read, he pleads to it as a sufficient one. If the individuals of the jury furnish any objection, he should have taken advantage of it before plea pleaded—he might then have stated any thing which he thought a sufficient objection to the return of the grand jury, or the circumstances affecting them; he might in other stages of the prosecution have availed himself of that objection. But though the names of the grand jurors were placed on the record, and a substantial objection to every one of them as grand jurors, and even though there were a substantial objection to the sheriff who returned the panel, after plea pleaded he could take no advantage of such objections; because, at the moment he pleaded, he admitted the sufficiency of the persons who found the bill and who returned the panel; and it would be strange to admit that for error, which, if on the face of the indictment, would not furnish a ground of objection, on which error could be brought or judgment be reversed; therefore it seems perfectly nugatory. You have the caption taken according to the practice of the Court; but though it were not, it is not necessary it should appear on the face of the record for the reasons mentioned, and, by pleading, he has acknowledged it to be such as he should plead to. His having pleaded will not prevent him from having his objections to any thing appearing on the indictment itself. But he admits that it is well found; and even if it had what he wants, it would furnish no ground for an arrest of judgment.

Earl of *Clonmell*.—My brothers wish to hear if you have any authorities to support the objection.

Mr. *Ponsonby*.—Then you wish us to urge *it this day?*

Earl of *Clonmell*.—Yes, certainly. I believe it is lenity to the prisoner to dispose of it as soon as possible.

Mr. *Ponsonby*.—As to the practice, I do not believe there is any practice upon the subject. I do not know that there has been a bill of indictment for high treason in this court for upwards of one hundred years past; therefore, as to the practice, it would puzzle a man older than any of the officers of the court to give any account of it. First then, it appears from Foster that the names of the grand jurors were set out in the caption. The attorney-general has been pleased to say that, by pleading, we have cured this defect, if any it was. But the first principle of the criminal law is, that a verdict cures nothing.

[Here the prisoner growing exceedingly faint, the Court ordered the windows to be opened, that he should have free air.]

Mr. *Ponsonby* continued, the statute of *jeof ails* does not apply. If it ever was error, it is error still. I humbly conceive, that you cannot be warranted to pronounce judgment, unless it appears that the bill of indictment was regularly taken and returned, as such bill ought to be. That the names of the jurors should be set out, is plain for two reasons, first that the prisoner might have had an opportunity to object to them, as not being qualified to be grand jurors. Secondly, that he might have an opportunity of objecting to them, if they were called on the petit jury, because otherwise it is impossible for him to know who composed it, and these very persons who found the bill may be put on the petit jury. If it does not appear on the record, that all things were legally done, the Court cannot pronounce judgment. It is not sufficient to say that the charges are sufficiently laid in the indictment itself. It is not any answer to our objection to say that we do not object to the counts which charge the treason; but I say it is necessary that on the record itself, as it stands made up, all the circumstances should appear legally done. And if they do not appear so, the Court cannot pronounce judgment. It is not merely on the indictment and verdict that the Court pronounces its judgment; it is on the whole record. Suppose there appeared a plain, manifest, and uncontroverted error in the caption of the indictment, could it be argued that the Court would be warranted in giving judgment?

[By this time the prisoner, having sunk upon his chair, appeared to be in a state of extreme debility.]

Earl of *Clonmell*.—If the prisoner is in a state of insensibility, it is impossible that I can pronounce the judgment of the Court upon him. If Foster had not mentioned a like instance (the case of an old woman brought up to the Old Bailey) humanity and common sense would require that he should be in a state of sensibility.

Mr. *Attorney General.*—On that ground I have no objection to his being remanded; it was on the other ground that I objected.

Mr. *Curran.*—Your lordship did the same in the case of the Walshes, father and son.

Earl of *Clonmell.*—I did.

[Here the Clerk of the Crown read the caption again.]

Mr. *Ponsonby.*—It does not state that they were sworn to try and inquire.

Mr. Justice *Downes.*—It is, *on their oaths.*

[Here the prisoner becoming perfectly insensible, Dr. Thomas Waite, who was present in court, was desired to go into the dock to him. He after some examination informed the Court, there was every apprehension, he would go off immediately.

Mr. *Thomas Kinsley*, who was in the jury box, said, he would go down to him; he accordingly went into the dock, and in a short time informed the Court that the prisoner was certainly dying.

The Court ordered Mr. Kinsley to be sworn. He was sworn accordingly.

Earl of *Clonmell.*—Are you in any profession?

Mr. *Kinsley.*—I am an apothecary and druggist.

Earl of *Clonmell.*—Can you say you understand your profession sufficiently, so as to speak of the state of the prisoner?

Mr. *Kinsley.*—I can. I think him verging to eternity; he has every symptom of death about him.

Earl of *Clonmell.*—Do you conceive him insensible, or in that state, as to be able to hear the judgment, or what may be said for or against him?

Mr. *Kinsley.*—Quite the contrary. I do not think he can hear his judgment.

Earl of *Clonmell.*—Then he must be taken away. Take care in sending him away, that you do not any mischief. Let him be remanded until farther orders, and I believe it much for his advantage, as for all of yours, to adjourn.

The *Sheriff* informed the Court that the prisoner was dead.

Earl of *Clonmell.*—Let an inquisition, and a respectable one, be held on the body. You should carefully inquire when and by what means he died.

The Court then adjourned, and the body of the deceased remained in the dock, without being moved from the position in which he had died, until nine o'clock of the following morning, May 1st, when an inquisition was held upon a view of the body. Surgeons Hume and Adrian were examined; they opened the body and found near a pint of acrid matter in the stomach, which was entirely corroded; but the bowels were not at all affected, the matter not having passed to them. Mr. Hume was of opinion, that the matter in the stomach was a metallic poison, that it caused the death of the deceased, and that no diet could have occasioned such appearances as the stomach exhibited: it was impossible the deceased could survive, the matter being of such a mortal nature, as appeared from the symptoms.

Mr. *Gregg*, the gaoler, was also examined; he said the deceased was visited by Mrs. Jackson, in the morning, before he was brought up to court—witness went into the room, and perceived Mr. Jackson much agitated; he said he had taken some tea which always disagreed with him, when his spirits were depressed; immediately after which he vomited very violently.

INQUISITION AND VERDICT.

County of Dublin, to wit. } AN Inquisition indented taken and held for our sovereign lord the king, at the place commonly called or known by the name of the court of King's-bench, in the said county of Dublin, the first day of May, in the 35th year of the reign of our sovereign lord George the 3rd, by the grace of God of Great Britain, France and Ireland, king, defender of the faith and so forth, before George Hepenstal, esq. one of the coroners of our said lord the king, for the said county, on view of the body of the Rev. William Jackson, then and there lying dead, upon the oath of John King, William Gibson, John Brooke, Christopher Halligan, Thomas Saunders, John Plunket, Francis Hammil, Thomas Mangan, John Ellery, James Byefield, John Keane, and James Murphy, good and lawful men, of the said county, duly chosen, and who being then and there duly sworn and charged to inquire, for our said lord the king, when, how, and by what means the said William Jackson came to his death, do, upon their oaths, say,

We find that the deceased William Jackson died on the 30th of April, in consequence of some acrid and mortal matter taken into his stomach, but how or by whom administered is to the jury unknown.

A Paper, of which the following is a copy, was found in the pocket of the deceased, in his own hand-writing:

Turn Thee unto me, and have mercy upon me; for I am desolate and afflicted!

The troubles of my heart are enlarged: O bring Thou me out of my distresses!

Look upon mine affliction and my pain; and forgive all my sins!

Consider mine enemies for they are many; and they hate me with a cruel violence!

O keep my soul, and deliver me. Let me not be ashamed, for I put my trust in Thee.

608. Proceedings on the Trial of Major Sir ARCHIBALD GORDON KINLOCH, of Gilmerton, Bart. for the Murder of Sir Francis Kinloch, Bart. his Brother-German.* Tried before the High Court of Justiciary at Edinburgh, on Monday June 29: 35 GEORGE III. A. D. 1795.†

THE prisoner was brought to the bar a little before ten o'clock.—He was dressed in black; and his demeanor was decent and respectful. He was attended by sir Foster Cunliffe, bart. his brother-in-law, and James Wilkie of Foulden, esq. his cousin-german.

The Judges, in their justiciary-robes, preceded by a macer, bearing the justiciary mace, soon after took their places on the bench in the following order, viz.

Lord Justice Clerk, [Mac. Queen]; lord Eskgrove, [afterwards Lord Justice Clerk]; lord Swinton, lord Dunsinnan, lord Craig.

In support of the Prosecution, appeared, Robert Dundas, esq. his majesty's advocate, [afterwards Lord Chief Baron of the Exchequer]; Robert Blair, esq. Solicitor General, [afterwards Lord President of the Court of Session]; John Burnet, esq. Advocate; Mr. Hugh Warrender, Agent.

For the Panel appeared, David Hume, esq. Charles Hope, esq. [afterwards Lord President of the Court of Session]; William Rae, esq. David Monypenny, esq [afterwards a Lord of Session, and of Justiciary, and a Lord Commissioner of the Jury Court, with the title of Lord Pitmilly]—Advocates.

Messrs. James and Charles Bremner, Agents.

Silence being proclaimed, the Clerk of Court ordered a macer to call Robert Dundas, esq. his majesty's advocate, for his majesty's interest, against major sir Archibald Gordon Kinloch of Gilmerton, baronet; which being done with the usual forms and solemnities, the lord justice clerk desired the prisoner to attend to the indictment then to be read.

INDICTMENT.

Sir Archibald Gordon-Kinloch of Gilmerton, baronet, present prisoner, in the Tolbooth of Edinburgh, you are indicted and accused, at the instance of Robert Dundas, esq. of Arniston, his majesty's advocate, for his majesty's interest, That whereas, by the laws of God, the laws of this, and of every other well governed realm, murder, more especially when committed by a brother against a brother, is a crime of a most heinous nature, and severely punishable: Yet true it is, and of verity, That you, the said sir Archibald Gordon-Kinloch are guilty actor, or art and part, of the foresaid crime, aggravated as aforesaid; in so far as you, the said sir Archibald Gordon-Kinloch, being, on the 14th day of April 1795, in the house of Gilmerton, belonging to the deceased sir Francis Kinloch of Gilmerton, baronet, your brother-german, situated in the parish of Athelstonford, and county of Haddington, did on the night of the said 14th, or early in the morning of the 15th of April 1795, or on one or other of the days or nights of that month, or of the month of March immediately preceding or of May immediately following, come down from your bed-chamber in the house of Gilmerton aforesaid, to the parlour or dining-room, where your said brother then was, you having, at the time, two loaded pistols somewhere concealed about your clothes; and having soon thereafter left the said parlour or dining-room, and your said brother having followed, and being then close by you, the said sir Archibald Gordon-Kinloch, on the stair leading to the upper apartments, you did then and there murder the said sir Francis Kinloch, your brother, by wickedly and feloniously discharging one of the said loaded pistols at your said brother, by which he received a mortal wound; the ball having penetrated below the point of the sternum or breast-bone, towards the right side: and the said sir Francis Kinloch having languished in great pain till the evening of the 16th of the said month of April, did then expire, in consequence of the wound given him by you the said sir Archibald Gordon-Kinloch, and notwithstanding of every medical assistance having been procured.—And you, the said sir Archibald Gordon-Kinloch, having, upon the 30th day of May 1795, been brought before James Clerk, * esq. sheriff-depute of the shire of

* Although perhaps the trial of sir Archibald Gordon Kinlock is not strictly within the scope of this work, yet on account of its intrinsic interest and importance, and in deference to the opinion of many eminent professional friends in Scotland, I am induced to insert it.

† From the original printed report, purporting to have been taken in short-hand, and carefully revised by the counsel.

* Afterwards a baron of the exchequer.

Edinburgh, did, in his presence, emit a declaration, which was signed by you, the said sir Archibald Gordon-Kinloch: which declaration, together with two small pocket pistols, having the words "H. W. Mortimer, London, gunmaker to his majesty," marked on the barrel; as also a pistol-ball, extracted from the body of the said sir Francis Kinloch; as also a certificate dated at Gilmerton the 18th of April 1795, and signed "James Home, Benjamin Bell, G. Somner;" also a letter from the deceased sir Francis Kinloch to Mr. Alexander Fraser, sheriff-clerk of Haddington, dated 15th of March 1795; another letter from the said sir Francis Kinloch to the said Alexander Fraser without a date, but marked on the back 18th March 1795; as also a letter from you the said sir Archibald Gordon-Kinloch, to the said Alexander Fraser, dated Haddington gaol, 22d day of April 1795; another letter from you the said sir Archibald Gordon-Kinloch to the said Alexander Fraser, dated the said 22d day of April 1795; and also a letter dated Edinburgh gaol, 24th April 1795, from you the said sir Archibald Gordon-Kinloch, to the said Alexander Fraser, will all be used in evidence against you, the said sir Archibald Gordon-Kinloch, and will, for that purpose, be lodged in the hands of the clerk of the high court of justiciary, before which you are to be tried, that you may have an opportunity of seeing the same. At least, time and place above-mentioned, the said sir Francis Kinloch of Gilmerton was murdered, and you, the said sir Archibald Gordon-Kinloch, are guilty actor, or art and part, of the said crime. All which, or part thereof, being found proven by the verdict of an assize, before the lord justice general, lord justice clerk, and lords commissioners of justiciary, you the said sir Archibald Gordon-Kinloch, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming."*

Lord Justice Clerk.—Sir Archibald Gordon Kinloch, baronet, are you Guilty or not Guilty.

Prisoner.—Not Guilty.

After the Panel had pled Not Guilty, Mr. *David Hume*, one of his counsel, addressed the court as follows:—

My Lord Justice Clerk;—Your lordships have heard the plea which the panel enters to the charge,—the grievous and too relevant charge,—which is laid in this (as I must needs admit it to be) most necessary prosecution against him. And it now remains for those who have undertaken the care of his defence (however unequal to so important a task), to explain to your lordships, somewhat more fully than the panel for himself can be expected to do, the meaning of that plea, in the particular circumstances of this case; and to point out to you the scope and object of the proof in exculpation, which is intended to be taken on his part.

In pleading not guilty to the charge, the panel would, in the first place, be understood to intimate his denial of that, which the prosecutor in support of his libel has to prove, and which, if he cannot prove, he must fail in his prosecution, namely, that it is he who has been the actor of the miserable deed of slaughter here related;—a thing which, even if it be true, the panel cannot confess, having scarce any knowledge or remembrance of what passed on the occasion of himself, but from the relation of others only, which does not call for, nor would justify a confession.

But farther, my lord, and perhaps in this case still more material,—if unluckily it shall appear and be shown, that the panel's *hand* has been the unhappy cause of the death of his brother,—then, my lord, and in that event, his plea must be understood to mean this other, equally available indeed, but far less fortunate defence, that at least his heart and

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* List of the Witnesses cited on both sides.

——— Witnesses for the Crown, of whom those marked thus * were likewise cited for the Panel.

Alexander Kinloch, esq. son of the deceased sir David Kinloch of Gilmerton, baronet.*
Walter Gibson servant to the said Alexander Kinloch.*
Alexander Menie, sometime butler to the deceased sir Francis Kinloch of Gilmerton, now residing in Edinburgh.*
George Douglas, servant to miss Kinloch, daughter of the deceased sir David Kinloch of Gilmerton, baronet.*
Alexander Campbell, lately postillion at Gilmerton, now servant to James Drummond, esq. of Perth.*
William Reid, gardener at Gilmerton.*
William Temple, chaise-driver in Haddington.*
Dr. Alexander Monro, physician in Edinburgh.*
Dr. Francis Home, physician in Edinburgh.*
Dr. James Home, physician in Edinburgh.*
Mr. Benjamin Bell, surgeon in Edinburgh.*
Dr. William Farquharson, surgeon in Edinburgh.*
Mr. George Somner, surgeon in Haddington.*
Alexander Fraser, sheriff-clerk to the county of Haddington.*
Hugh Dods, clerk to the said Alexander Fraser.
Duncan M'Millan, writer in Edinburgh.*
Mr. Charles Hay, advocate.
The rev. Mr. George Goldie, minister of the gospel at Athelstoneford.*
John Walker, tenant in Beanston.*
James Clerk, esq. sheriff-depute of the county of Edinburgh.
Joseph Mack, writer in Edinburgh.
William Scott, procurator-fiscal of the county of Edinburgh.

purpose have not been in the deed, but his hand only,—that it was not the work of malice and design (without which there is no murder), but of pure fatality and misfortune, which he could not avoid, and for which he is not the object of punishment, but of sympathy and commiseration:—Because, my lord, at the time stated in this indictment, the panel was no longer to be numbered in the rank of reasonable and accountable beings, but by one of those high and dreadful visitations of Providence, to which we all, the wisest and the best of us, are equally liable, and from which even thrones are not exempt, had been deprived of all self-government,—of all regulation of his conduct, or control of his passions,—of all discernment of friend from foe, or of that which was meant to serve from that which was meant to harm him,—and acted, in short, under the blind impulse of a distempered and furious imagination, which transported him wheresoever it would, —which filled him with a thousand vain jealousies, horrors, and apprehensions,—and would equally have turned his hand against whatsoever person had at that moment come in the way. This, my lord, is the panel's plea and main reliance.*

My lord, while I state it for him, I am not ignorant of the reports and rumours that are abroad in the world; rumours, I am sorry to say, which, on the very day† preceding this trial, and even from the pulpit, the seat itself of truth and of charity, have, in contempt of decency and humanity, been industriously circulated to condemn him. I say, I am not ignorant of these reports, and of the weight of prejudice and suspicion, with which, in consequence, I have to struggle; not indeed with your lordships, whose breasts are void of every feeling of the sort, and who will listen to nothing but the information of the law, and the still voice of your own conscience; but with the people at large, from among whom the persons, who as jurymen are to decide on the panel's fate, are and must be taken. Nor, my lord, do I think it very wonderful, that such should be their feelings on this extraordinary occasion. My lord, when they are told the miserable story of this event, —that a worthy and excellent gentleman,— the representative of a flourishing and respected family,—just arrived at the possession of his inheritance, in the course of nature, by the death of his aged father (a father, in good time removed from the sight of such a scene among his children);—when, my lord, they are told that this good and estimable person, surrounded with all the fair prospects of a long, a happy and a useful life,—that he has been taken off by a foul murder,—a murder committed under his own roof, almost at his own table, and in the

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William Stephens, sheriff-officer in Edinburgh.
William Dumbreck, hotel keeper in St. Andrew's-square, Edinburgh.*
William Graham, waiter to the said William Dumbreck.*
Charles Manderson, postilion to the said William Dumbreck.*
James Robertson, keeper of the Black Bull-inn, Edinburgh.
Patrick Lee, vintner in Edinburgh.*
Alexander Murker, waiter to the said Patrick Lee.*
Mr. Alexander Hislop, provost of Haddington.
Mr. Thomas Fairbairn, sheriff-substitute of the shire of Haddington.*
Hay Smith, writer in Haddington.
James Stormonth, writer in Edinburgh.*
Patrick or Peter Dickson, sometime coachman to the late sir David Kinloch of Gilmerton, baronet.*
Margaret Muir, residenter in Haddington.*
James Robertson, keeper of Edinburgh gaol.
Alexander Goodwin, inner-keeper of said gaol.
James Laing, jun. writer in Edinburgh.
Mr. Richard Somner, surgeon in Haddington.

WITNESSES cited for the Panel only.

Miss Janet Kinloch, daughter of the deceased sir David Kinloch.
Lieutenant colonel Samuel Twentyman.
Captain Henry Miller, of the Staffordshire militia.
Major John Mackay.
Mr. Francis Anderson, writer to the signet.
Mr. Alexander Low, tenant at Woodend.
John Reid, master of old Slaughters coffee-house, St. Martin's-lane, London.
John Parsons, hairdresser, No. 8, Little Suffolk-street, London.
Margaret Curtis, widow of Michael Curtis, occasionally servant to the panel.
William Urquhart, perfumer and hairdresser, No. 4, Panton-street, Haymarket, London.
Mrs. Margaret Hay, his mother-in-law.
Alexander Urquhart, green grocer, London.
John Johnston, grieve at Gilmerton.
Jane Logie, chambermaid at Walker's-hotel, Prince's-street, Edinburgh.
Robert Dickson, postillion to Mrs. Fairbairn at Haddington.
Henry Gibson, waiter to Mr. Lorimer, Dunbar.
William Turnbull, postillion to Mr. Fraser at Dunbar.
Elizabeth M'Dougal hen wife at Gilmerton.
William Sandie, driver of the Haddington coach.
Thomas Temple, hostler to Mrs. Fairbairn, Haddington.
William Moffat, forrester at Gilmerton.
David Hunter, labourer at Gilmerton.
Alexander Ferguson, labourer there.
Francis Buchan Wright, north Berwick. And
The reverend Dr. David Johnston, minister of the gospel at north Leith.

* See the case of John Frith, ante, Vol. 22, p. 311, and the cases there cited.

† A mistake in point of fact for the Sunday se'enight before. *Orig. Edit.*

midst of his domestics, friends and relations; and when to all this it is added, that he has fallen by the hand of his own brother, his guest at the time, and inmate of his house, by him

"Who should against his Murth'rer shut the door,
"Not bear the knife himself."

No wonder, when this lamentable story is related, if, in the first emotions of pity and of indignation at so sad and strange a tragedy, any thing that can be said in defence of the unhappy author of so much mischief, is heard at first with a close heart and an unfavourable ear.

But, my lord, how natural and how excuseable soever these emotions (as surely they are most excuseable), they are not, however, the just and proper emotions for this time and occasion; nor is this a disposition which they can be suffered to bring with them into the presence of this court of justice; into which, my lord, they are not called to assuage their passions, or indulge their feelings, with regard to an event, which, however deplorable, is past and gone, and cannot be recalled, (I would it could); but to try as judges, coolly and impartially to try, nay scrupulously and tenderly to try, the manner of that calamity, whether it was of chance or of design, and to decide on the life and death of a frail and infirm mortal like themselves, who if, by the will of Providence, he has truly been visited with this grievous and sore affliction, and has been the instrument of destroying a brother, who never did him harm, and whom he never regarded but as a brother, is himself far more to be pitied than the deceased, and is no object of judgment, but for that Almighty Judge whose hand hath smitten him. These things, I trust and hope in God, that all now present, and those especially who have been called to the office of jurymen, will, as they value the interest of justice, or their own peace of mind, remember and keep in view; and that there are no bounds nor measure to the idle, the confident, yet false and groundless stories which a whole country, commenting upon one, and that so marvelous and interesting a subject, must give rise to.

My lord, I ask your lordships pardon for just touching on this topic, unnecessary I confess to your lordships, and to which I shall not again recur. With respect to the proper business before the Court,—in stating the panel's plea in the general terms I have already used, I have perhaps sufficiently complied with the rule of Court, and have stated that, which you cannot but sustain as a relevant and lawful defence. But, my lord, from any thing I know of this case, I shall have no objection to lay the state and history of the fact somewhat more fully before the Court; though, on the other hand, it cannot, and I know it will not be expected of me, to enter into a disquisition concerning the nature of madness (the thing of all others the hardest to be described), or that I should attempt to ascertain the peculiar class and character of the distemper, to which this unhappy man was liable.

Suffice it to say, that it was no short, sudden, and unaccountable fit of phrenzy, for the first time observed at the moment of the slaughter (though, allow me to observe, even this, if absolutely and fully proved, would in law, as in reason, be sufficient); but the panel's plea is far more favourable. Upwards of fifteen years ago, I believe in 1779, when abroad in the West Indies, in the service of his country as an officer, the panel had the misfortune to be seized with one of those dreadful fevers incident to the climates of that quarter of the world, and which raged with such violence at this time, that out of 5,000 men, which composed their little army in the island of St. Lucia, no fewer than 1800 were, in the course of a few months, swept away. After a long and severe illness, and by the pure strength of his constitution, he escaped, my lord, at last, with his life; but I cannot say, fortunately escaped, for he left the better part of him behind; and from thence forward was no longer the man he had been before. Not only, my lord, was there a great alteration of the temper and humour of the man, who, from social, cheerful, and good humoured, became sullen, jealous, and irascible, and extremely changeable and uncertain—not only was there a decay of the vigour of his intellect—a confusion, weakness, and cloudiness of understanding; but there had come to be at times a plain derangement and disorder—and this to such a degree, as had on one occasion tempted him to turn his hand against his own life (as he is now charged to have done against his brother's);—and this an attempt of so violent and serious a nature (by cutting himself very deeply in the wrist), as occasioned him a confinement of three months, before he was again fit to come abroad.

This, my lord, had been his state for years. But of late, and recently before the event which gives rise to this trial, things had plainly been verging (as happens with this malady), from worse to worse, into absolute insanity and deprivation of reason. Of which melancholy truth, my lord, so much were all about him,—so much was the deceased himself convinced (not to mention the many strong proofs of it that will be given you in his actions and conduct), that every preparation had been made, the strait-waistcoat provided, a keeper engaged, and the proper attendants summoned to the house, to reduce him, by main force, into a state of coercion as a madman, who could no longer be suffered to go at large.

Happy would it have been for the deceased, happy for the panel, for the common friends of the family, and for the public, if this salu-

tary, this necessary purpose, had with due dispatch and resolution been carried into effect, for to the undue delay of it (owing, I admit, to amiable, but most unfortunate motives) was the catastrophe owing that ensued. Had it not been for that delay, and an awkward and ill conducted attempt in the end to seize his person, at a time, when there was no force at hand to master him, sir Francis Kinloch might now have been alive, and happy in the midst of his friends;—your lordships would have been spared this painful piece of duty;—and sir Archibald Gordon-Kinloch, a gentleman of birth and accomplishments, and born to happier prospects, would not now have stood exposed, a public and miserable spectacle, at the bar of a court of justice, and under trial for his life.

My lord, when I have explained the defence in these terms,—a state of utter insanity, at the time of the deed, and preceded by a course of infirmity and of occasional derangement for years, I trust I have laid a plea before you, which stands in no need of aid from cases, books or precedents, to recommend it to the attention and favour of the Court; nor will I consume one moment of your lordships time, which, I am afraid, will at any rate be long encroached on, with the quotation of any such, in support of that which nature, reason, and humanity prescribe.

The Court delivered their opinions, which coincided with the proposition of Mr. Hume; and the following interlocutor was pronounced:—

"The lord justice clerk, and lords commissioners of justiciary, having considered the criminal libel, raised and pursued at the instance of Robert Dundas, esq., of Arniston, his majesty's advocate, against the said sir Archibald Gordon-Kinloch of Gilmerton, baronet, they find the libel relevant to infer the pains of law; but allow the panel to prove all facts and circumstances that may tend to exculpate him, or alleviate his guilt: and remit the panel, with the libel, to the knowledge of an assize."

The jury being called, and no objection made to any of them, the following gentlemen were impanelled:—

THE JURY.

1. Andrew Wauchope of Niddry Marischal, Chancellor.
2. John Wauchope of Edmonstone.
3. George Ramsay of Whitchill.
4. Simon Fraser of Ford.
5. Robert Trotter of Castlelaw.
6. John Newton of Curriehill.
7. Alexander Keith of Ravelston.
8. George Ramsay, younger, of Barnton.
9. James M'Aulay, druggist in Edinburgh.
10. Robert Sanderson, merchant there.
11. William Goulter, merchant there.
12. Thomas Hutchison, baker there.
13. John Moncrieff, apothecary there.
14. Patrick Inglis, merchant there.
15. Elphinston Balfour, bookseller there, Clerk.

EVIDENCE FOR THE CROWN.

Duncan M'Millan, writer in Edinburgh.—Examined by Mr. *Burnett*.

Were you acquainted with the late sir Francis Kinloch?—I was.

Do you remember, on Monday 13th of April last, seeing major, now sir Archibald Gordon-Kinloch?—Yes, I came from Edinburgh with Mr. Alexander Kinloch.

Do you remember of meeting a chaise on your road to Haddington?—Yes.

At what time might this be?—Past 3 o'clock in the afternoon.

Did you observe who was in the chaise?—The prisoner at the bar was in it.

Did you observe any thing particular in his appearance?—He threw himself back, as if wishing to avoid being seen.

Did the chaise stop?—No.

Lord Justice Clerk.—Were you going in opposite directions?—Yes.

Mr. *Burnett*.—Had you any conversation with Mr. Alexander Kinloch on this occasion?—He expressed surprise, because he thought his brother had gone to London.

Did Mr. Alexander mention the day that he supposed his brother had gone to London?—No.

You passed on to Haddington?—Yes, and stopped at Mrs. Fairbairn's.

Did you dine at Mrs. Fairbairn's?—Yes.

Had you any other company?—Yes, Mr. George Somner, who dined with us.

Did you see major Gordon-Kinloch there?—I heard the noise of a carriage. I looked out at the window, and observed that it was the same chaise we had met. It stopped at Mr. Somner's shop.

Did you or any of the company go out?—Mr. Somner went out, and returned soon after with major Gordon-Kinloch.

Had you any conversation with the major?—Yes; I asked him how he was; he answered, he was very ill.

Did he continue in the room with you, or did he go out?—He went out and returned again.

How long did you remain in Fairbairn's house, and how did the major behave when he returned?—When he came back, we pressed him to take a glass of wine and water; and he was in so bad a state, that he was not able to carry it to his head.

Did you go to Gilmerton that night?—Yes.

Who went along with you?—Mr. Alexander Kinloch.

Had you not occasion to know that another person went along with Mr. Somner?—Mr. Somner and the panel set out with the intention of going to Gilmerton, as they

Did they not go forward?—

Which the panel and Mr. Som

ped at a place called Cockbird-tail, about a mile from Gilmerton. We asked them why they stopped? And they said, to make water.

Lord Justice Clerk.—Mr. Somner made the answer?—Yes.

Mr. *Burnett.*—What passed farther?—After they had stopped a considerable time, I asked what detained them so long? And Mr. Somner answered, that the major had gone away.

Was a postillion sent after him?—One of the postillions was sent to look for him: he came back, and informed us, that he had overtaken the major, who said he was going to Haddington, where he said he would be found.

Did you then go on to Gilmerton?—Yes, we arrived there a little after ten at night.

Did both chaises go on?—Both.

Do you remember of any thing being taken out of the chaise in which the major was?—I think there were some things taken out, but I was not present.

What happened after your arrival at Gilmerton relating to the major?—Mr. Somner came into my bed-room in the morning, told me, that he was going to Haddington to look after the panel, and desired me to follow him as quickly as I could.

You went to Haddington then?—Yes, after breakfast, and inquired for the major, but could get no information of him.

Did you go back to Gilmerton that day?—Yes, I returned before dinner.

Was sir Francis Kinloch at home?—Yes; also Mr. Alexander, Miss Kinloch, and a Mr. Low.

Do you remember any thing that happened after dinner?—I remember there was a message brought to me, that somebody wanted to speak to me.

About what time was this?—About half an hour after dinner.

When was dinner?—We sat down to dine about five.

Who was the person that wanted you?—It was William Reid the gardener.

What passed between you?—He told me that he had been up at Mr. Walker's of Beanston, and that he had seen the major there, who was in a very disagreeable situation indeed. That he went up stairs, and knocked at the door where the panel was. That the panel called out who was there, and the door was half-opened from within. There was no body in the room but the panel. He had a pistol in his hand, which alarmed Reid exceedingly.

Lord Justice Clerk.—He had a pistol you say?—Yes, my lord. This is all that William Reid told me.

Mr. *Burnett.*—How did you proceed?—I called sir Francis out of the room to inform him; and the panel appeared soon after. I observed him, before he came up to the house, from the window of the lobby.

Did he come into the house?—Yes, he came into the lobby.

What conversation passed there?—Very little.

Lord Advocate.—Do you recollect any part of that conversation?—His brother and I inquired how he did, and he said, very poorly.

Mr. *Burnett.*—Do you recollect where he went next?—By the desire of sir Francis, who took him by the arm, he went to his own bed-chamber, and I returned to the dining-room.

What happened next?—A message was soon after brought to Mr. Low, that sir Francis had been taken very ill, and could do no business that night; upon which Mr. Alexander Kinloch left the dining-room, and went up stairs, and shortly after Mr. Low went away.

Had you occasion to leave the dining-room, and go up stairs?—Yes, to the major's room.

What conversation had you with the major?—I do not recollect.

Was the major in bed?—He was lying on the bed, and part of his clothes were off.

Do you recollect any conversation that passed?—The major spoke, and conversed a good deal with his brother sir Francis; but I do not recollect the purport of the conversation.

How long did you remain in the room?—Not long. I was there occasionally. The family went to supper about eleven, but the major did not come down.

Was sir Francis in the room?—Yes.

Lord Advocate.—You saw the panel before at Fairbairn's, and afterwards at Gilmerton, did he appear in a better or worse situation at the latter period than at the former?—He appeared a great deal calmer, from the attention of his brother sir Francis.

Do you recollect the substance of what passed in conversation?—No.

Did he hold any irrational or incoherent conversation, either in your or his brother's presence before supper?—I cannot say.

Did any thing pass, which impressed your mind at the time that he was unfit to hold a rational conversation?—I did not think him perfectly collected.

Was he more or less collected than when you saw him at Fairbairn's?—He was more collected.

From what circumstance or appearance did you form this opinion, that he was not perfectly collected?—It was from his conversation. He wandered from topic to topic.

Mr. *Burnett.*—How long did the company sit at supper?—Till three in the morning.

Did any person join them?—Yes, Mr. George Somner.

At what time did he come there?—Between 10 and 11.

This was before supper?—It was.

At what time did you go to bed?—Immediately after supper.

Have you occasion to know, if sir Francis went to bed then?—He left the room before I did go to bed. He had occasionally left the dining-room in order to visit the major.

Did you see him afterwards?—I saw him in his bed-chamber before I went to bed.

What did you say to him?—I advised him to go to bed.

How long were you in bed?—I was waked by Mr. George Somner.

Lord Justice Clerk.—There was only one Mr. Somner here?—Yes.

Mr. *Burnett.*—What was the occasion of Mr. Somner waking you?—To tell me that sir Francis was shot.

Where did you go to?—Straight to sir Francis's room.

In what situation did you find sir Francis? The servants were undressing him.

Did he speak to you?—He told me not to mind him, for there were plenty with him; but to go and prevent his poor sister from coming into the room.

Did you see any wound about sir Francis?—I saw a wound, and was desired by Mr. Somner to put my hand upon it, to prevent the external air from entering.

Did you prevent Miss Kinloch from entering the room?—I went immediately to the door, when sir Francis desired me, but could not prevent her from coming in. She came in, and was very much distracted.

Did she remain in the room?—No, we were forced to carry her out. I returned, after seeing Miss Kinloch to her room.

Were any expresses sent off?—There was an express sent to Edinburgh for Dr. Munro and Mr. Benjamin Bell, and another to Haddington, for Mr. Richard Somner. I then went into the room where sir Francis was, and supported him for half an hour, while Mr. George Somner was preparing bandages.

Lord Advocate.—Did any conversation pass between the deceased and you on the subject of the event that had taken place?—None, only he said, "God Almighty help that poor unhappy man."

Did you, in passing from your own apartment to that of sir Francis, see the prisoner?—No, I did not see him again.

Was he not on the stairs, nor in the lobby?—No.

When did Mr. Bell arrive?—He came about eleven o'clock.

Was sir Francis regularly attended by medical persons?—Yes.

Had you any farther conversation with sir Francis?—I had some little conversation, but none on the accident, or the person who committed it, except what I mentioned before.

How long did sir Francis survive the accident?—The wound was received on Wednesday morning, and he died on Thursday night, about eleven o'clock.

You were intimate in the family of the late sir David Kinloch—how long did that intimacy continue?—From the year 1762.

Were you intimate from the year 1780 downwards?—Yes.

When did sir David die?—In February last.

Was the panel at that time in the house?—Yes.

How long did he continue after?—I cannot say; I went away.

Did sir Francis ever go from home at any time, and leave his brother, his sister and you, at Gilmerton?—Yes. I came into Edinburgh before the session rose, and before that time, sir Francis had gone to Edinburgh.

Did you remain at Gilmerton during the time of sir Francis's absence?—Yes.

Who acted as landlord then?—The major.

During any time previous to the 12th of March, had you occasion to observe any thing particular in the conduct of the prisoner?—Nothing, except that he was dissatisfied with his father's settlements.

Does it consist with your knowledge, that sir Francis had any particular reason for going to Edinburgh?—Yes, it was to take the advice of counsel on his father's settlements.

Do you not know, that it was on account of the dissatisfaction that the panel had expressed?—Yes, from the time that sir Francis left Gilmerton to go to Edinburgh, till the day that I left it also.

Did any conversation pass on that topic?—Yes.

What was the tendency of that conversation?—The panel expressed his dissatisfaction in several conversations.

From the year 1780 downwards, did you observe any thing particular in the conduct of the prisoner?—He was remarkable for being exceedingly troublesome when he got drink.

Do you recollect any other peculiarity?—He was sometimes not correct, not sane.

Do you allude to the time he was in liquor or otherwise?—He was confined for insanity once in Edinburgh.

Do you recollect when?—It was a few years ago.

Is it from that circumstance or any other, that you formed your opinion of him being insane?—It is from that circumstance, together with other appearances.

Of what nature were these other appearances?—That of being troublesome in company; and, at a former period of life, he was one of the most mild and pleasant men in company I ever saw.

Did you ever observe any appearances, when sober, which could induce you to suppose him insane?—I remember once, some years ago, that he came to my bed-side, in my own house, about five in the morning, and said, he was going to set off for Greenock to see major Mackay.

Lord Justice Clerk.—Had he not been in town?—No; he had been travelling all night.

Was he sober?—Yes.

Lord Advocate.—Was it from his conversation or appearance that you judged him insane?—From both.

Did he tell you his purpose in going to visit major Mackay?—No.

Nor where he had been?—Yes, at Berwick.

Did you attempt to dissuade him?—Yes.

Did he state any reason why he was going to see major Mackay?—None.

Did you take any steps in consequence of this?—No.

Did you ever communicate to his family the opinion you had formed?—I think that I must have mentioned to sir Francis, that I thought him insane.

Do you know of any cause of enmity, or of any grudge subsisting between the panel and his brother?—His conduct when in drink was very extraordinary.

Do you remember any thing more remarkable than another?—I remember very high words passing between them, and the prisoner struck Sir Francis.

Did sir Francis give any cause for this?—He certainly was in a great passion.

Was there any cause for this passion?—The panel had given great abuse to a gentleman at his father's table, and sir Francis reproved him for it. He struck him with a glass tumbler, and wounded him upon the face.

Were you present at the abuse that had taken place?—I was.

In your opinion, was the abuse such as to justify sir Francis for taking his brother to task?—I think it was.

What happened in consequence?—I carried sir Francis up stairs and dressed him.

Sir David was not informed of it then?—Not for some time.

Does it consist with your knowledge, that the panel was obliged to leave his father's house on account of this misunderstanding?—I think he was.

How did sir Francis take this behaviour?—He forgave him. He did not feel any resentment.

During the last years of your acquaintance with the panel, was he accustomed to leave the house suddenly, without warning, or telling where he was going?—Yes.

And did he come back without telling where he had been?—Yes.

Were any steps taken, or proposed to be taken to confine him? I never heard of any during all this time, till immediately before the present event. I mean till after sir David's death.

Mr. *Burnett.*—Had you occasion to know that the major came to Edinburgh, and resided there some time before his brother's death?—Yes.

How long before his death?—A few days, and he lived in the Black Bull inn.

In what state did he appear? was he able to converse on general subjects?—He was.

Do you remember any difference in his appearance from what you had seen at Gilmerton?—I thought he had been living harder than usual.

Did you observe any other alteration?—No.

Lord Advocate.—You tell us you never knew of any steps being taken to confine him?—None, until I went to Haddington.

When?—On the Monday evening.

Was that the first time?—Yes.

What induced the family to do this?—The deranged state he was in.

Were any steps actually taken?—Mr. Somner returned from Gilmerton to Haddington, for the purpose.

Was there any preparation made in the course of Tuesday?—None, till Tuesday night. The panel came home about six, and Mr. Somner was sent for about ten; and it was proposed to secure the panel, but Sir Francis delayed it.

Who proposed it?—Sir Francis himself proposed it.

Duncan M'Millan, cross-examined by Mr. *Hume.*

Deponed, That the panel, when in Mrs. Fairbairn's, attempted to swallow a bit of meat, and could not: that his brother Alexander assisted him to carry the glass to his head, on account of the shaking of his hand: that he was unquiet and restless; kept walking backwards and forwards through the room, and went out to the stable-yard and garden: that he seemed oppressed and unhappy, and hardly joined in the conversation: that he gave no reason for his purpose of going to Edinburgh, nor for returning to Haddington, nor for calling at Mr. Somner's: that the agitation of his person, and the shaking of his hand, appeared to the deponent to arise from illness, and not from liquor: that he did not press drinking, or show any desire for it; on the contrary, drank less than others of the company; and that of course, they would not have assisted him to carry the glass to his head, if they had thought that he had already got more than he was the better of: that Mr. Somner gave directions to the ostler to look after him, as appearing to be ill and deranged, and unfit to take care of himself: that on the evening, when the panel struck his brother, it was after supper, and the bottle had been on the table, and the party drinking from dinner to supper: that on the evening of Tuesday the 14th, Mr. Somner had brought a strait waistcoat with him to be put on the panel, and a nurse or keeper to attend him.

Lord Justice Clerk.—You have deponed to various meetings with the panel before the accident happened. Now, according to the best of your judgment, was he in a capacity to know the difference between moral good and evil, and to know that murder was a crime?—I cannot say.

Say to the best of your judgment?—I think

he was in a capacity to judge between good and evil.

Lord *Eskgrove*.—Had you any reason to believe, that the prisoner was acquainted with the coming of the woman from Haddington?—No.

Mr. *Trotter* (one of the Jury).—Did sir Francis, after coming out of the major's room, on the night on which the accident happened, speak as if there had been any difference that night between him and the major?—No.*

George Sommer, surgeon in Haddington, examined by Mr. solicitor-general *Blair*.

Were you well acquainted with the deceased sir Francis Kinloch?—Yes.

Do you remember of receiving a message from Gilmerton on Monday the 13th of April last?—A messenger came from Miss Kinloch, desiring me to come immediately and speak to her. I went there about one or two o'clock.

What conversation passed betwixt Miss Kinloch and you?—It was to prevent major Kinloch from going to Edinburgh, for she thought him in a very unsettled state of mind and not fit to undertake the journey.

Did you see the major?—I saw him before I saw Miss Kinloch. He was in a post-chaise at the door. He said he was going to town.

Did he accordingly set out?—Not immediately. I observed him in the chaise very much agitated; and, from his appearance, suspected it to be on his account that Miss Kinloch had sent for me.

What conversation had you with Miss Kinloch?—She told me that he appeared in a strange situation; that he had come there on the Sunday, with the buckles or strings out of his shoes.

What did you say?—I told her that, from the observations I had made myself, I concluded him perfectly mad, and that he should not be allowed to go about.

What were the circumstances that made you think so?—From the appearance of his eye, and the agitation in which he seemed to be.

Has it been common for you to attend mad persons?—No.

What farther passed?—I went down stairs to try to stop him from going away. I told him, if he would wait till I got some little refreshment, I would go with him to Haddington. This was the argument I made use of to induce him to come out of the chaise.

What did he say to this?—That he could not stop, as he would be too late for dinner at Edinburgh; and he accordingly ordered the postillion to drive on, and drove away.

After this, had you any farther conversation with Miss Kinloch?—Yes. I urged the propriety and necessity of confining him. I told sir Francis the same thing that I had told Miss Kinloch: and he expressed a desire, that I might follow the major to Edinburgh, and take the advice of the two doctors Hamilton as to what should be done.

Did you return to Haddington that night?—Yes; and, when I returned there, I received a message from Mr. Alexander Kinloch and Mr. M'Millan, who were at Mrs. Fairbairn's desiring me to go there. I went there and saw Mr. Alexander and Mr. M'Millan, and told them what had passed at Gilmerton. They told me, that they had met the major going to Edinburgh. After dinner Mr. M'Millan observed the chaise in which the major was. It was driving as if he had been coming from Edinburgh. We looked to see which way the chaise would go, and it stopped at my shop door. I went down, and asked him to come up to Fairbairn's. He agreed to come. He shook hands with his brother Alexander, saying, he was very ill, and would never be better. He then walked about the room in great agitation, and shaking his head; and he afterwards left the room.

Did his brother or any body ask him to stay?—We all asked him to stay and take some dinner, and either go to Edinburgh, or return to Gilmerton.

What did he say?—He tried to eat and could not, and he sometimes sat on the fore-side of a bed, which happened to be in the room, but would not lie down.

Did he afterwards agree to go to Gilmerton?—Yes. I went in one chaise with him, and M'Millan and Mr. Alexander went in another. On our way, the panel desired to get out of the chaise.

Did he give no reason?—No.

Did he return?—No. I desired one of the postillions to go after him. He said he would not return, because he was going back to Haddington.

What was done then?—We went on to Gilmerton.

About what time did you arrive there?—Between nine and ten.

Did you stay all night?—Yes.

Were sir Francis and Miss Kinloch there?—Yes.

How long did you stay at Gilmerton?—I staid all night, and returned next morning.

Did you receive any message from Gilmerton the next day, being Tuesday, the 14th of April?—Yes. I received a card from Mr. M'Millan, informing me that the major had arrived, and desiring me to come down, and bring what was necessary.

What did you understand by this?—I understood, that it was meant to confine the major, and that I should bring a strait waistcoat. I accordingly set out, and carried with me a strait waistcoat, and sent for a nurse, who sometimes attends deranged people.

And you went to Gilmerton with the nurse?—Yes, and I arrived there about ten o'clock at night.

* It was understood that this, and the five succeeding witnesses, were to be called back, and re-examined, at the instance of the panel: *but their exculpatory* evidence was ultimately *dispensed with. Orig. Edit.*

After your arrival, did you take any measures?—I went to the major, and found him pretty quiet in his bed-room, but still with the same wild look as the day before.

Had you any conversation with sir Francis, or any of the family, after you came?—Yes.

Did you tell them, that you had brought the waistcoat?—I certainly did. They agreed in the propriety of securing him.

What was your reason for not securing him?—I spoke to the servants frequently, the butler, Miss Kinloch's servant, &c. but the most of them were either averse, or afraid to do it.

Do you know what made them afraid to do it?—No.

Had you observed arms about the major?—No, not then.

You supped at Gilmerton. Did you see the major?—He came down to the parlour about three in the morning. He came down twice. When he came in for the first time, he walked about distractedly, and complained of a violent pain in his bowels.

Had you any more conversation about the pain in his bowels?—He blamed, as the cause, a dose of pills which sir Francis had given him, and which, as I understood from sir Francis, were analeptic pills.

This was the first time he spoke of them?—Yes. He said these pills had done him a great deal of ill, and he believed he was poisoned by them. I advised him to go to bed; upon which he left the room.

Did you go up to his bed-room?—No.

Did he come down again?—Yes.

When?—Soon after; within a very few minutes.

Had you any conversation on that occasion?—No.

Lord Advocate.—After you came with the strait waistcoat, did you see the major at any time out of his own room, before he came down to the parlour?—I saw him once, and spoke to him. I said he had much better not go down in the situation he then was in, for that Miss Kinloch was not gone to bed. This was between one and two o'clock of Wednesday morning; and the major had no cloaths on, excepting his breeches and shirt.

Mr. *Solicitor General.*—Tell us all that passed.

Witness.—I said to him, do not go down in that situation. He said he would go down, for he wanted to see Frank. I took hold of him by the arm, and said softly, "Dear sir, do not go down in that situation." When I took hold of him by the arm, he drew a pistol. I let go his arm. He said, take care of yourself. At that very time, sir Francis was coming up stairs. Sir Francis said, "Gordon, what is the matter?" He replied, "I do not know what to do. Oh! I am ill, I cannot sleep."

Did you or sir Francis say any thing to this?—The major went into his room; I believe sir Francis went in to him. I went down stairs soon after.

Mr. *Solicitor General.*—You have told us that he came down twice?

Witness.—Yes. This was before; the first time.

Tell us what happened the second time?—He came down in the very same distracted manner: he walked up and down: nobody spoke to him. Sir Francis went out after him, then Alexander, and then I followed.

Had he all his clothes on when he came into the parlour?—I do not remember. He generally had one or both his hands in his breeches pockets. The pistol that I had seen, made me suspect, that he had his hands in his breeches pockets holding pistols.

From what part of his clothes did he produce the pistol when you saw it first? From his breeches pocket. When I followed them as mentioned before, and had come without the parlour door, I saw the flash of a pistol. I was then between the parlour door and the entrance. The flash was in the stair.

Where was the panel, and where was sir Francis at this time?—After seeing the flash, I was so confused, that I cannot recollect; but I heard sir Francis cry he was done for. I ran up to them. They were standing in the stair. Whether I assisted in securing the panel, I do not remember; but I assisted sir Francis in going up stairs.

After sir Francis was carried up stairs, what did you see?—I saw a wound about three or four inches below the breast-bone. When he was laid in bed, I dressed the wound.

Did you apprehend it to be mortal?—Yes.

Did you or sir Francis say any thing during the time you were with him?—He said, it was madness in him to attempt securing his brother. I said, certainly it was.

Was there any other assistance sent for?—Yes. Dr. Monro, Mr. Bell, and my brother.

When did sir Francies die?—He died on the Thursday evening, about eleven o'clock.

Are you satisfied that the wound was the cause of his death?—I am satisfied it was.

Did you examine the body along with the other gentlemen?—Yes.

Did you find the bullet?—I was present when it was extracted. Mr. Bell extracted it, while sir Francis was alive.

[The witness was shown a certificate of what had been observed in opening the body of sir Francis after his death, and was asked if he had signed this certificate? to which question he answered in the affirmative.]

Did you see the panel again, or had you any conversation with him, after you went up with sir Francis?—I do not remember of seeing him till he was in Haddington gaol. After the pistol was fired, I remember nothing about him.

When did you see him?—I saw him in Haddingdon gaol, on Friday, the 16th of April.

What conversation passed there?—I had no particular conversation. I went up with Dr. Home, and Mr. Goldie the minister of the

parish. Mr. Goldie said, that as his brother was now dead, it fell to him to give directions as to what was to be done at Gilmerton; for, though he was accused of a most horrid crime, yet he was not yet indicted, nor tried by the laws of his country. He replied, that he was in such a state of mind, that he could give no directions or advice about any thing. The next thing that Mr. Goldie said was, that it was the opinion of lawyers, that he might, in the presence of witnesses, appoint Mr. Fraser and him to act for him.

What answer did the major make?—I do not remember the answer; but he agreed to it.

You said the major appeared in great horror: what did he say?—He said, it was a fatal day. Afterwards, Dr. Home asked him, if he would wish to see major Mackay and Dr. Farquharson. He said, he would be very glad to see them.

Lord Advocate.—When sir Francis left the parlour, immediately before the accident, did you know for what purpose he went?—No.

What was your purpose?—Sir Francis and I agreed as to the propriety of securing the major, if he came in a second time; but I did not leave the room with the intention of securing him.

Did you send for any of the out servants to assist in seizing him?—I know they were sent for.

Did you know that they were dismissed?—No. I did not see any of them at the time the accident happened.

When did you see any of them?—I saw them between twelve and two o'clock. I do not know that they were sent home.

Lord Justice Clerk.—The last time you saw the panel, previous to the event that took place, is it your opinion, that he was then in such a situation, as not to distinguish moral good from evil, and not to know that murder was a crime?—I cannot say. I do not know what he could distinguish.

Is it your opinion?—When I saw him on the Monday, and on the Tuesday, I considered him mad.

Mr. *Solicitor General.*—Was he mad to such a degree, as not to be able to distinguish good from evil?—I cannot answer the question in any other way than that I thought him perfectly mad.

[The witness was ordered to withdraw.]

Mr. *Hope.*—I could have wished, that a question of this nature had been allowed to come from the prosecutor, because then I might have commented upon it with greater freedom than I can do, since it has been suggested by the Court. The question, however, I think, was a proper one; and it was properly answered. The witness, after repeated interrogations, said, that he could not take upon him to tell what the panel could distinguish; but that when he (the witness) saw *him on the Monday*, and on the Tuesday, he considered him mad. He says again, "I cannot answer the question otherwise, than that I thought him perfectly mad." And I must say, that, as a professional man, he could not answer it otherwise than he has done. My lords, I am not of the witness's profession; but, as a man who has paid some attention to the human mind, and to human nature, I must repeat, that the question was answered as it ought to have been.

My lords, I have made some observations on madmen myself. Persons in that unhappy situation are too often exposed to the impertinent visits of strangers; at least, it used to be so in London: and well I remember, when at an early period of life, led by the idle curiosity of a boy, I have gone to view the places of their confinement. But, my lords, I hardly ever saw a man so mad (though lying naked, and chained, on straw), who, if the abstract question were put, do you think murder a crime? would not answer in the affirmative. Madmen, my lords, will often talk rationally on any subject, until you come across that particular topic, which has deranged their understanding. I therefore submit, that it is not proper to press the witness for a more particular answer. Has he not said, that the panel was perfectly mad? The prosecutor talks of degrees of madness, but there is no degree in perfect madness; this is already the superlative degree. And when the witness, a professional man, has declared, that he cannot answer the question otherwise, I say, that any other answer which he may give, cannot be an answer according to his conscience.

My lords, had not the witness been a professional man, I should not have insisted so much upon the point; but as a man who, from his profession, must know something of the nature of this disease, I do repeat, he could not have answered the question in any other manner; and I do submit, that he cannot be forced to give any other answer than that which he has already given.

Lord Advocate.—My lords, I do not intend to press the witness any farther on that point. If my brother supposes that I meant to press him to make an answer contrary to his conscience,—that I meant to push him to give me a different answer from that which he has chosen to give,—he has much mistaken my meaning. When I proceeded to press him a little farther, it was only to discover what was meant under the words "perfectly mad." What I mean to press from him goes thus far, to see whether the same general question, at any particular period of time, will receive the same answer. This I contend, I am entitled to do; and I shall judge from the answers that may be given, what inference I shall draw to the jury.

[The witness was recalled.]

Lord Advocate.—When you saw the panel at Mrs. Fairbairn's on the Monday, was he in such a situation as to discern good from evil,

or to know that murder was a crime?—I cannot say that he could not.

When you saw him next night in his own room at Gilmerton, down to the time of his appearance in the parlour, can you say, during that period, from ten at night to three in the morning, that the panel was in a condition to discern good from evil, or to know that murder was a crime? I have not had much practice in cases of insanity; and what such persons may think, I am at a loss to say.

You have told us, that you cannot say, that, when at Fairbairn's, the panel could not discern good from evil; and that, with regard to the second period, you have not had much practice in cases of lunacy,—very proper answers. Now, did you observe any difference in that time, and on what side lay the difference?—I did not observe any difference until he came into the parlour, when he appeared worse.

Mr. *George Sumner* cross-examined by Mr. *Hume*.

Deponed, That when at Haddington, the panel was restless, agitated, and unhappy,—could not eat,—trembled so as to need assistance in carrying a tumbler of wine and water to his head;—did not seem disposed to drink, and got no spirits there that he knows of: that the motion of returning to Gilmerton, was not the panel's own thought, but the witness's motion.

Mr. *Hume*.—If you were carried from this room to Bedlam, and there shown a lunatic in his cell; if this lunatic, on being asked, "If murder is a crime?" should answer "Yes," would you, on the faith of that answer, think it safe to put yourself in his power, or to venture within his reach?—I would not.

May not a person be mad, and yet know his keeper or others who are much about him, and be liable to be intimidated and controlled by them?—I think he may.

Do you think that the panel, on the Tuesday evening, when he came to the parlour, was in such a situation of mind as to be capable of distinguishing the good or evil intentions of those who came near him, or interfered with him? or, to be more particular, do you think he was able to distinguish, and be thankful for the good intention of a medical person like yourself, who attended to serve and assist him, from the intention of an enemy, who should come to harm him?—I do not think he could.

If you had attempted to wrest the pistol from him at the top of the stair, should you have run a risk of your life?—I think I should.

If you had tried to seize him when sir Francis did, or if you had been in the same position as sir Francis was with respect to him, at the time when the pistol was fired, do you believe that you should have met with the same fate?—I believe I should.

Did it appear to you, that the panel, when sir Francis was with him, was soothed and pleased with his kindness?—It did rather appear to me, that he was more quiet when sir Francis was with him than at other times.

Was he ever alone with sir Francis in the course of the Tuesday evening?—I did understand that the panel and sir Francis were at times in the panel's bed-room by themselves, but I cannot positively say so from my own knowledge.

In the course of the Tuesday evening, were the panel's conduct and appearance such as to persuade you, that the advice which you had given, to have him secured and confined, was a wrong, or groundless, or unnecessary advice?—No, I still thought it right.

At the time when the panel fired the pistol, was he fully dressed, so as to be in a condition to make his escape if he had been so disposed?—He was not.

Lord *Swinton*.—You say you brought a woman and a strait waistcoat; does it consist with your knowledge, that the panel was informed of this?—I do not think he was informed of the waistcoat, but he knew of the nurse.

Lord Advocate.—I have asked you already your opinion of his sanity on the Monday and Tuesday. I put the same question again. When you saw him in jail, did you then think him capable of discerning good from evil, and of knowing that murder was a crime?—I thought him then sensible.

Mr. *Moncrieff* (one of the jury).—How long have you been surgeon to the family of Gilmerton?—Twelve years.

Do you know of any hereditary diseases in the family?—No.

Can you assign any cause for the panel's derangement?—No.

Do you know whether the panel, at any time previous to the accident, endured a remarkable degree of cold?—I do not know.

Do you know whether he resisted the taking of food?—I mentioned that he would eat nothing on the Monday.

Do you know whether he used to sleep well?—I have observed that he was very restless.

Do you think that the resistance of cold, hunger, and sleep, affords the best marks of distinguishing insanity, from cases where it is only feigned to serve a particular purpose?—I think it does.

Mr. *M'Aulay* (another of the jury).—When you saw the panel in the chaise, did he do any thing, or say any thing outrageous?—No.

Did you think him drunk?—No.

Do you think that drink might have produced the same behaviour?—I never saw him in the same situation before.

Do not you think that the passions of the mind, such as fear, anger, revenge, jealousy, &c. may produce temporary fits of insanity?—I think they might have put a person much in the same situation.

George Douglas examined by Mr. *Burnett.*

Were you a servant to Miss Kinloch in April last?—Yes.

Do you remember any accident that happened about the 15th of that month?—Yes. It happened between three and four in the morning.

What accident do you allude to?—I was in the butler's parlour. I heard the report of a pistol.

Where did you go when you heard the report?—I ran into the dining-room, and laid hands upon major Gordon.

Did you not see sir Francis before you went into the dining-room?—I just got a glance of him in passing.

Did you see any pistols?—I lifted a pistol within the dining-room door.

Was it loaded?—No. It was empty, but appeared to have been newly discharged.

Did you not see another pistol?—I received another from the postillion, which he said he had found on major Gordon.

Was it loaded?—Yes. I afterwards saw it drawn.

[Here the witness was shown a pair of pistols.]

Are these the pistols you saw?—Yes, they are.

What did you do with major Gordon?—We laid him on the carpet, and held him down, until a woman came and put a handkerchief on his face. He then had a strait waistcoat put upon him, and was taken up to his own room.

What did he say to you?—He cried to let him live for one hour, and he would give us 100*l.* a-piece.

Did he speak of what he had done?—He asked if his brother was dead.

Do you remember any thing more?—After he was bound, he asked what we were going to do with him, if we were going to cut his throat, or stab him.

Was he carried up to his room?—He walked up.

What passed then?—He said, "I have done an awful thing."

Any more?—I went away.

When did you see him again?—Sometime through the day.

What situation was he in? Did you hear him say any thing?—He lay very quiet in his bed.

Did the panel desire to see any person in particular?—He asked how his sister was, and wanted to see Mr. Fraser, but Mr. Fraser would not go near him. He asked also how his brother sir Francis was.

Did you, or any body, mention in what situation he was?—When he asked, I said he was very poorly.

Did he understand the answer that was made?—He seemed to be sorry.

How long was he in that situation?—Till *Wednesday night.*

When he was conveyed to Haddington gaol, who went with him?—Mr. Hay Smith, writer, from Haddington, accompanied him in the carriage.

Did he say he was sorry for what he had done?—No; but he seemed to be sorry, and sometimes appeared not to understand what was said.

George Douglas cross-examined by Mr. *Hume.*

Deponed, That the panel, after being seized, said to sir Francis's servant, that his master had poisoned him, and that otherwise he would not have done to him what he did: that the panel, at the time of doing the deed, was in no condition to make his escape, having nothing on but his breeches and a great coat.

Alexander Campbell examined by Mr. *Burnett.*

Were you a servant at Gilmerton last April?—Yes, I was postillion.

Do you remember sir Francis being wounded?—Yes.

At what period of the month did it happen?—I do not remember the day: it was about the middle of the month.

Tell us what passed?—I was in the butler's parlour, and heard the report of a pistol between three and four in the morning, and went into the dining-room, where I saw major Gordon, and two or three servants.

Did you see sir Francis after you heard the report of the pistol?—No.

Did you see any pistols?—Yes, I saw one in the hands of one of the lads.

Did you take any pistols from the prisoner?—Yes, I took one from his pocket.

What pocket?—He had on a great coat and breeches. The pistol was taken out of his breeches pocket.

Was it loaded?—I believe it was, but cannot say for certain, as I gave it to one of the servants.

[Here the witness was shown a pistol.]

Do you know that pistol?—Yes. It is one of them I saw.

What was done with the major after the pistols were taken from him?—There was a jacket put on him.

Was he taken to his room?—Yes.

What did he say?—He said that he had been poisoned by his elder brother; and that he knew he would have been seized, whether he had shot sir Francis or not.

What more?—He said that he would give them 100*l.* a-piece to let him live one hour.

What farther conversation passed in the bed-room?—Nothing more.

Did you see him carried away?—Yes, the same night.

Who went with him?—Mr. Smith from Haddington.

Juryman.—Did the major offer to you, when you seized him?—No us quietly to put on the jacket.

Alexander Campbell cross-examined by Mr. *Hume.*

Deponed, That when the pistol was fired, the panel had on a great coat, breeches, shirt, and stockings, but was without his waistcoat, and he thinks had nothing on his feet: that he certainly had not shoes on; and, if he had any thing on, it was only slippers.

Walter Gibson examined by Mr. *Burnett.*

Were you servant to sir Francis Kinloch?—Yes.

Do you remember of sir Francis being wounded in April last?—Yes.

Do you remember at what time it happened?—It was about three of a Wednesday morning. I was in the butler's parlour, and heard the pistol discharged.

Did you assist in seizing the major?—Yes. I took a pistol from his pocket.

Was it loaded?—I believe so.

What passed when you bound the major?—He spoke a good deal while we were binding him. He called out, that he had been poisoned by his brother.

Did he say any thing besides?—He cried to let him alone, as he would live but one hour.

Any thing more?—I do not recollect.

What did you do with him after he was bound?—He was carried to bed.

Walter Gibson cross-examined by Mr. *Hume.*

Deponed, That the panel, when he fired the pistol, was not in a condition to escape or leave the house, being without his shoes, and as he thinks without some of his clothes: that sir Francis, on being told that the panel was secured, said, Poor unhappy man. And that sir Francis, on the Wednesday evening, on being told that the major was carried to Haddington, said, "What are they going to do with him there. Why don't they carry him to Edinburgh?" but whether he meant to a gaol or a mad-house he did not explain.

Alexander Menie examined by Mr. *Burnett.*

You were butler to the late sir Francis Kinloch?—Yes.

You know that he was wounded in April last?—Yes.

Were you in his bed-room after he received the wound?—Yes.

When there, did sir Francis say any thing about the wound, or the person that had given it him?—No.

How long did you remain in the room?—About three quarters of an hour.

Were you frequently with him before he died?—Yes.

On these occasions, did you hear him say any thing about the panel?—No.

Did you see the panel during this time?—No. I did not see him till a fortnight after.

Lord Advocate.—How long have you been in this family?—Nine years.

Did you ever, during these nine years, hear any of the family say, that the panel was insane?—I overheard old sir David say to a gentleman, that Gordon was just going mad again.

Was the panel in the house at the time?—He was staying at Gilmerton, but was from home on a visit.

Did you observe any appearances of madness about him yourself?—I observed him unsettled.

Were any steps, or any advice taken in the family about him?—Not so far as I know.

Did he continue to come about the house, and to be in the same way as formerly?—Yes.

Hay Smith, writer in Haddington, examined by Mr. *Burnett.*

Do you remember being in the house of Gilmerton on the Wednesday night after sir Francis was wounded?—Yes.

Had you occasion to see the major?—Yes.

What was the occasion of your going there?—I went as a messenger to take him to Haddington gaol.

Who accompanied the major and you to Haddington?—A servant.

Lord Advocate.—Do you remember any thing that passed while on the road?—The major was in great distress, but said nothing.

Did any thing pass when you got to Haddington gaol? I put him into a small apartment, and went to inform the Provost, who ordered a better apartment.

When you first saw him, who was with him?—I went up with Mr. Goldie the minister.

Did the panel hold any conversation with you?—He conversed with the minister.

Did the answers, which he made to Mr. Goldie, appear to you collected and rational?—Yes.

Do you recollect any particular topic?—Not, when I was first in his room. At the time I went up to take him away, which was about eight in the evening, he asked me as a lawyer, to take a protest against these proceedings, and then appeared very confused.

Did you see him again?—Yes, in Haddington gaol.

How long did he remain there?—Three or four days.

Did he upon those occasions, when you saw him there, return rational answers?—He did.

Did you accompany him to Edinburgh?—Yes.

What conversation passed?—About the weather.

Was he rational?—Yes.

Benjamin Bell, surgeon in Edinburgh, examined by Mr. *Burnett.*

Were you sent for to Gilmerton on the 15th of April last?—I was.

Were you informed of the purpose for

which you were called?—I was informed at Gilmerton of the business. I was told that sir Francis was shot that morning.

Lord Advocate.—What passed when you saw sir Francis?—I found him lying in his bed in great distress. He had been shot under the breast-bone.

Did you believe the wound to be mortal?—From all the symptoms, I judged him to be a dying man.

Did you remain in the house till sir Francis died?—No. I waited till six o'clock next morning, not thinking it necessary to remain longer.

Are you of opinion, that the wound was the cause of his death?—Yes.

Did sir Francis hold any conversation with you concerning the person who wounded him?—He never did; except asking what was become of that unhappy man.

Did he not name the person?—No.

Did Dr. Monro attend?—Dr. Monro was ent for along with me, but did not go.

When you first of all examined the wound, on Wednesday morning, did sir Francis tell you how he had got it?—I had been told, that the person who fired the pistol was uppermost in the stair, and therefore I imagined the ball might have taken an oblique direction; but sir Francis gave me a distinct account of the accident, by which I understood, that the ball had gone right across his body; and I felt it with my hand near the back-bone, from whence it was extracted.

Did you open the body after death?—Yes, in company with Messrs. Somners. There was a report drawn up

Should you know the report again?—Yes.

[Here the report of what had been remarked on opening the body of sir Francis, was shown to, and recognised by Mr. Bell.]

How did sir Francis describe the situation of the person who shot him? He said, he was standing on the same step of the stair with himself, and that the pistol almost touched his body; and this account tallied exactly with the situation in which I found the ball.

Lord Justice Clerk.—Did he name the person?—No, he never named him.

[Here the witness was shown the ball which he had extracted from the body of sir Francis Kinloch. It was wrapped in a piece of paper, upon which Mr. Bell had marked the initial letters of his name.]

Lord Advocate—Did you know the family of Gilmerton before this accident?—Yes. I sometimes attended the late sir David.

When you went to Gilmerton on these occasions, did you see the panel?—Yes.

Did you ever know, or understand that the prisoner was insane?—I never did.

Had you occasion to attend the panel since the 24th of May?—Yes. At Mr. Warrender's desire, I have attended him in Edinburgh *gaol since that time,* twice a week.

Now, I ask you this as a professional man, did you ever see, believe, or judge him to be under any degree of insanity?—I never did. He always behaved with propriety; but he appeared under great anxiety of mind, and depression of spirits.

Did he seem to know his situation?—Yes.

Mr. *Benjamin Bell* cross-examined by Mr. *Hume.*

Deponed, That he visited the panel twice a week, from the 24th May, and sometimes remained with him from 15 to 20 minutes: that he generally sent up previous notice of his being there: that he cannot give an opinion upon these his visits, that the panel might not be furious on the 15th of April, nor even that he might not show symptoms of derangement in the intervals of his visits; for that the state of insane persons is liable to sudden and unaccountable variations: that he could not pretend to know a madman by the state of his pulse, or the feeling of his skin; for that, though in the beginning of insanity there is often fever, yet a confirmed state of insanity is not ordinarily attended with any; and that, in this, the delirium of a fever is distinguished from that of insanity: that madmen very often can distinguish their keeper, or others who are much about them: that in many instances, they are capable of dissimulation, and show cunning and contrivance to gain their ends: that one of the most constant symptoms of madness, is a jealousy of plots and conspiracies against them; and that most frequently the objects of these suspicions are their best friends, or the persons to whom they had been most attached: that the most certain means of distinguishing a madman, are 1st, By his actions and conduct; and, 2dly, By the appearance of his countenance, especially of his eye, which has a peculiar wildness: that restlessness,—want of sleep,—odd postures,—strange gestures,—and the like, are also among the indications of the malady: that if a person has been subject to occasional derangement, and should swallow a great quantity of laudanum, this, in his case, might be more apt to produce a furiosity of a few days, and the person afterwards make a quick recovery, than in the case of a person who had never been subject to such disorder: that the confinement, solitude, and quiet of a gaol, would be likely means to promote and assist such recovery.

Dr. *Alexander Monro,* physician in Edinburgh, examined by Mr. *Burnett.*

Have you attended the panel in gaol?—Yes.

How often have you visited him?—Four different times since the 24th of May.

What situation did you usually find him in, with regard to his mind?—I saw no marks of insanity.

Did you converse with him?—]

Did you feel his pulse when

him?—Always, and I found it calm and regular.

Dr. *Monro* cross-examined by Mr. *Hume.*

Deponed, That he had paid the panel four visits in gaol after the 24th of May. Being asked the same questions as Mr. Bell, he made the same answers in substance; and in particular, being asked, whether madmen were more apt to be jealous of their enemies or of their friends and near connexions? He answered, That their friends were most commonly the objects of their suspicion, and that he thought it natural it should be so; for as madmen were not sensible of their own condition, or of the necessity of restraining them, and as friends and relations were chiefly active in controlling or imposing restraints on them, so these persons irritated them, and in consequence became the objects of resentment. He added, that in his visits to the panel, which might be from 7 to 15 minutes, he avoided any topic that could irritate him; and that if he had remained a whole, or half a day with him, he could better have judged of his condition: and, upon the whole, that he could only give an opinion as relative to the times and occasions when he saw him, and nothing more.

Lord Advocate.—Did you ever, in the course of your practice, know a person who went mad for forty-eight hours, and then recovered and continued well?—Never, except when the person had swallowed a great quantity of liquor, or owing to some adventitious cause.

Mr. *Hope.*—May not a person, who has been subject to fits of madness, become suddenly insane, and recover again?—He is more apt to do so, than a person who never was insane.

May not the taking of laudanum by a person who has been occasionally insane, produce a fit of insanity?—Yes.

Charles Hay, esq. advocate, examined by the *Solicitor-General.*

Were you well acquainted with the late sir Francis Kinloch?—I certainly was.

Did he consult you upon any points after his father's death?—He did ask my opinion respecting his father's settlements sometime after his death.

Will you be so good as mention every thing which you remember that passed between sir Francis and you upon that occasion; and, in particular, any thing respecting differences which had occurred between him and the panel.

Mr. *Hay*, (addressing the Court.)—My lord, it is a delicate situation in which I stand; I am called upon to give evidence, not to facts consistent with my personal knowledge, but to disclose conversations of a confidential and private nature, that passed between sir Francis Kinloch and me, not only as a friend, but in my professional character of a lawyer.* I should therefore be glad to know from the Court, whether it is their opinion, that I am bound to give an account of these confidential conversations.

Lord Justice Clerk.—Your delicacy, Mr. Hay, is proper; but it is the opinion of the Court, you ought to answer the question. When called upon in such circumstances, and in a case of this importance, it is your duty to give the Court and jury all the information in your power.

Mr. *Hay.*—From the regard I bore to sir Francis Kinloch, I intended to go out to Gilmerton the very day after the last winter session rose, in order to pay my respects to him on occasion of his father sir David Kinloch's death; but, being unwilling to put him under any restraint, I wrote to Mr. Duncan M'Millan, who, I knew, was then at Gilmerton, rather than to sir Francis himself, and desired him to let me know, whether it would be perfectly convenient for sir Francis to receive my visit at that time. Mr. M'Millan returned me an answer, that sir Francis would be in Edinburgh before the time I proposed to be at Gilmerton, and that I should see him. Sir Francis arrived in town upon the 10th or 11th of March, and dined with me on the 12th or 13th, when he took occasion to mention, that his reason for coming to town was, to advise with his friends concerning differences which had arisen betwixt him and some of the other branches of the family, concerning his father's settlements, or rather after incidents.

Mr. *Burnett.*—Explain what were these after incidents, and with what branches of the family these differences had happened.

Mr. *Hay.*—Sir Francis told me, that after sir David's settlements were opened, appointing him his father's general diponee, he, having got the key of the repository in which sir David lodged his papers, observed, that sir David had been accustomed to preserve almost every letter that he received, on matters of trivial importance, and other papers of no consequence, for which reason, he desired Mr. M'Millan, and Mr. Fraser, sheriff-clerk of Haddington, to separate the rubbish from the material papers, and to destroy the former, which he understood that they accordingly burned, or at least great part of it. This inspired a jealousy into the mind of his brother the major, that papers were destroyed to the prejudice of the younger branches of the family, which he communicated to his younger brother, Mr. Alexander; and it was on account of this misunderstanding, that sir

* See Burnett on the Criminal Law of Scotland, p. 436; Hume's Comm. Tr. for Cr. Vol. 2, p. 150; and the Duchess of Kingston's Case, *antè*, Vol. 20, pp. 572, 573, 586, 613. See also, in addition to the authorities cited in the note to Vol. 20, p. 573, Mr. Phillipps's valuable Treatise on the Law of Evidence, part 1, chap. vi. p. 103, 3rd edit.

Francis told me, he had come to town to take my opinion, and that of Mr. Solicitor-General on the subject.—Sir Francis then showed me the general disposition by his father in his favour; and, on reading it, I told him I was clearly of opinion, it was properly conceived, so that it was impossible there could be room for any dispute between him and his brothers, unless it should so happen, that the claim of legitim to the younger children was not discharged in their father's and mother's contract of marriage, in consideration of special provisions being settled on them, which I mentioned to him would probably be the case, as few contracts of marriage were entered into, at the sight of regular men of business, without a clause to that purpose. I having then explained to sir Francis the nature and extent of the claim of legitim which would lie in this particular case, he immediately said, that the provisions settled by sir David on the younger children, were superior to what they could claim in virtue of the legitim, even if it were not discharged; whereupon I expressed my satisfaction, that there could be no ground for any legal dispute, and it was suggested that there would be no necessity to trouble the solicitor-general for any opinion on the case, at least till sir Francis should have an opportunity of looking into his father's marriage-contract, which he was not then possessed of. A great deal of conversation passed upon the subject, with the exact particulars of which I cannot now charge my memory, but I am certain I have told the import of it.

Had you any subsequent conversation with sir Francis on this subject?—I called upon sir Francis a few days thereafter at Dumbreck's hotel, where he was confined with a heavy cold. He then desired that I would give him a written opinion upon the subject of which we had formerly conversed, to be communicated to his brothers. I declined giving him a formal opinion, mentioning, that it occurred to me, that a letter written, as from one friend to another, might have a better effect. Sir Francis agreed with me, and I accordingly wrote, and delivered to him out of my own hand, a letter containing my sentiments.

Mr. *Hay* cross-examined by Mr. *Hume*.

Did sir Francis afterwards mention to you, that he had communicated your letter to his brothers?—In eight or ten days thereafter, I was with sir Francis in a mixed company, and in a whisper asked him, whether he had shown my letter to his brothers? To which he answered in general terms, that he had; but no farther conversation passed, and I never saw him afterwards so far as I recollect, as this was either the Saturday se'ennight, or Saturday fortnight preceding his decease.

Did sir Francis write to you, complaining that your letter had not had the desired effect?—No, he never did.

Lord Justice Clerk.—Did you understand that the difference between sir Francis and the panel had risen to a great height?—To a very great height indeed.

The rev. Mr. *George Goldie*, minister of the Gospel at Athelstoneford, examined by Mr. *Burnett*.

Had you occasion to go to the house of Gilmerton soon after sir Francis was wounded?—Yes, I went there on the morning after the accident happened; I heard of it between eight and nine, and immediately went down.

Did you see the major?—Yes.

What passed?—After I had been some time in the house, I was made to understand, that major Gordon wanted to see me. I accordingly went up, and found him lying bound in bed with a strait waistcoat on, and in a very distracted state. I asked him how he was; he answered "very ill." He then asked me to sit down by his bed-side. I did so, and asked him if he recollected what had passed? he said he did. I asked him, if he was not filled with horror at what he had done? He answered with a furious air, and in a low tone of voice uncommonly stern, "No." My own feelings were much distressed, and I exclaimed "Are you not filled with horror at the recollection of a deed that has destroyed one of the worthiest of men, and best of brothers,—a deed, that has thrown a family into a state of distraction, and a whole country into the most extreme misery?" He again answered in the same tone, that what he had done was in self-defence. There was," (said he) "a deliberate plan formed to destroy me." "Who told you of that plan?" He replied, "that he knew it well." "You could know it only" (said I) "from the jealousy or suspicion of your own mind, for the worthy man, whom you have destroyed, was incapable of forming a plan against any human being." "I shall die, (said he) this evening; my brother has poisoned me. He has given me pills, which have already deprived me of the use of all the lower parts of my body." I replied, I knew nothing about pills; but, if he had got pills, they had been given him with a view to do him good, not to hurt him.

Had you any farther conversation?—He cried, to take away the people that were about him. I believe, he meant the woman, and the man servant who attended him, who, he thought, had a design to murder him; and he insisted upon me staying with him upon that account. He said, he understood there was no danger of sir Francis. I answered, that whoever had told him so, had been deceiving him; for I had the best authority, the authority of the medical gentlemen, for saying, that the danger was most imminent, and that, in all probability his brother would be a corpse before evening.

Did you see him upon any occasion in the afternoon?—Yes. Towards the evening he became very outrageous, and attempted to burst asunder his bonds. He called for me, wanted to see me; and, when I

he insisted that I should use every endeavour to set him at liberty. He ordered the servants to go out of the room; for, he had something particular to say to me. I desired the servants to walk out. He then told me, that he must be put in a chair before he could communicate what he bad to say to me. I told him, he could inform me of any thing very well where he was. He then told me, it was about money matters: he said, he had several hundred pounds which no body knew of, and he wanted to settle it. I told him there were men of business in the house, who might be consulted about that, and then sent to Mr. Fraser and Mr. Smith. When Mr Smith came into the room, he said to him, "who has a right to use me in this tyrannical manner; is it not competent to take a protest against them?" Mr. Smith said, it could not be done. The major then spoke of settling some money matters; and Mr. Smith having said, it would be better to delay that business till afterwards, the major replied, "why not now?"

"Procrastination is the thief of time."

Had you occasion to see him afterwards in Haddington gaol?—Yes.

What conversation passed there?—I told him, that I had come at the particular desire of the friends of the family, to receive directions about the management of affairs at Gilmerton. He declined giving any directions, but left the whole to his brother Sandy. I informed him, that his brother was from home, and that the friends of the family were of opinion, that some directions were absolutely necessary in the meantime. He said, that the friends ought to do what they thought most proper. I then told him, that the friends of the family had suggested, that Mr. Fraser and I should be appointed to take the management, and that they wished to have his consent; and that, if this proposal met with his approbation, I would write out, in his name, and in presence of two respectable witnesses, a power to this effect; to all which he agreed, adding, that he was in such a state, that he could not attend to any business. A power was accordingly written in presence of Dr. James Home and Mr. George Somner, and a clause subjoined, that, if Mr. Fraser and I should meet with any difficulties, we should take the advice of gentlemen of the law.

The Rev. Mr. *George Goldie* cross-examined by Mr. *Hume*.

Do you recollect what conversations you have had with the panel since he came to Edinburgh? I have seen him frequently in Edinburgh, and occasionally mentioned to him how he had acted, and the fatal event that had taken place. His answers were various. At the times when he was correct, he expressed great regret that he had not been seized and disarmed before he committed the unlucky deed. It was not merely regret, he expressed horror at the deed, and astonishment, from what he had afterwards learned as to his situation at the time, that it had not been put out of his power to do any thing of the kind. He blamed his friends in very strong terms, for having treated him with so much lenity.

Had you any conversation on the day of the accident, about an English bank bill?—Yes; in the course of that day, at Gilmerton, when Mr. Hay Smith was present, and it was proposed to make an inventory of the panel's money and papers: he was asked, if he had any money in his pockets? To which he answered, he had a bill for 30*l.* in them. Upon searching, I told him, I could not find it. He said, he was perfectly certain of having brought it to Gilmerton the day before. I then went down stairs, and informed Mr. Fraser of this circumstance. Mr. Fraser said, "we know about the bill; he gave it to William Reid the gardner last night at Beanston, who gave it to sir Francis." I returned, and told we had found it, and in what manner. He had no recollection of having done so; and just said, "Honest William."

Lord Advocate.—How long have you been settled at Athelstoneford?—Since April 1778.

Is Gilmerton in the parish of Athelstoneford?—Yes.

You would be sometimes at Gilmerton?—I had the honour to be frequently there.

Of course, you would be acquainted with the family?—I was well acquainted with all the family.

Was the panel at the bar frequently there during your visits?—He was.

Did you ever, previous to his father's death, know that the panel was insane?—Never, from my own personal knowledge or observation.

Did you ever, previous to sir David's death, hear that the family had taken any steps to confine him?—I never heard of their taking any, previous to sir David's death.

Did you ever hear of the panel being insane?—Yes. I remember in June 1790, I went to Dunbar, to assist a brother minister in dispensing the sacrament; I lodged at Mr. Lorimer's, who informed me, that he had seen my friend, major Gordon, who had behaved in a very strange manner: that he was very glad I had come, for, if he had not had the prospect of seeing me, he would certainly have written to desire me to inform the family; and he told me, that the behaviour of the major was such, that he considered him as deranged.

Did he give you any reason for that opinion?—He said, that he put himself into strange attitudes, and went about the room beating his breast and head: that he ordered a chaise for Gilmerton, but in place of going to Gilmerton, he drove through Dunbar, and, as Mr. Lorimer was informed, had gone to Dunse.

Did you hear of any other instances?—No.

Did you inform any of the family of what Mr. Lorimer had told you?—I mentioned it to sir Francis, who was then Mr. Francis Kinloch.

Since Sir David's death, did you make any observations on the panel's behaviour?—I have seen him in great depression of spirits.

Did you form an opinion, that he was insane?—The last time that I had the pleasure of seeing him at Gilmerton, previous to the late melancholy event, was on the 28th of March. An old coachman of the family (Peter Dickson), seeing the major in a very distressed situation, had considered it his duty to call at the Manse the day before, when I was from home, and said, that he thought the major should not be left by himself. On the morning after this information, I went to Gilmerton, and found the major walking in the avenue. He told me, that he did not know what was the matter with him; he could not settle in any one place, nor fix his mind on any one subject. I thought he was not fit to be left by himself; and though I had occasion to leave him at this time, and though he did not as usual invite me back to dinner, yet I returned, and found him walking about. Fearing he might think I intruded, I felt myself obliged to apologize. I said, "You well think, sir, your evil genius haunts you to day; but I thought you would be dull by yourself, and have therefore used the freedom to come to dine with you." He thanked me, and said he was very glad of my company.

Did you observe any thing uncommon in his behaviour on any other occasion?—Yes. On the 12th of April, the Sunday immediately before sir Francis's death, I saw a carriage stop opposite to the Manse. I immediately went out, and saw the major; and, upon my asking him, he came out of the carriage. When we came in (we had just done dinner), I asked him if he had dined? and he said he had; I said that it was much earlier than his usual hour of dinner. Supposing that he said he had dined, with a view not to give trouble to the family, I told him he could have a dinner immediately and without any trouble. He repeated, that he had already dined. I then asked him, if he would take a glass of wine? He said, he would just take what was on the table, which was toddy: he then put a small quantity of spirits into a tumbler glass with water, but was so uncommonly agitated, that, in carrying it to his head, he spilt a great deal of it upon the table, and drank very little of it. He told me, he wanted to speak to me privately; upon which we went into another room. When there, he asked me, how many children I had? This question had been asked and answered below stairs; he repeated the same question again, and walked about the room in great agitation. I reminded him, that he had something particular to say. Of *this* he took no notice, but again asked me, *how many children* I had? I reminded him a second time, that he said he had something to communicate to me. He then said, he believed he should not be long in this world, and that, when that event took place, it would not be the worse for my family. I said, that was the language of his present depressed state of mind; and added, that at his time of life, and with a constitution naturally so vigorous, he had no reason to apprehend any danger of that kind, and he might hope to live many years; and I advised him to live regularly and quietly, instead of driving about as he had lately done, which tended to agitate his mind; and said, that a few weeks spent in retirement, would restore him to the comfortable enjoyment of himself and friends.

Did any thing else pass?—I recommended to him, to think of some useful employment, and to take the advice of his brothers and other friends on that point. In speaking of his brother sir Francis, I said he was a worthy man; and the major repeated my words, saying, he was a worthy man.

Lord Justice Clerk.—You have mentioned a long conversation. From what passed betwixt you, did it appear to you, that the panel's answers were incoherent and absurd?—He seldom made any answers, and his behaviour was such, as to make the impression on my mind, that he was very absent.

But such answers as he did make, were they incoherent, or foreign to the purpose?—I cannot say so; but I formed the opinion, for the first time, that he was deranged, and not himself.

Did you think him capable of judging between right and wrong?—I cannot say but he was.

Did you inform his family of what had passed?—I did not make up my mind that night, as it was a very delicate point; but I went on Monday, and told Miss Kinloch what I had observed. I begged that the most prudent measures might be taken for securing the major; and said, that the honour and happiness of the family was deeply concerned in this; for I was much afraid, he might commit some desperate deed. Miss Kinloch told me what directions she had given to Mr. George Somner, which relieved my mind from great anxiety, which had been impressed on my mind by his behaviour the day before. Miss Kinloch had, in the mean time, sent a message, desiring to see me.

Did you go of your own accord to give your opinion, or in consequence of Miss Kinloch's message?—I had previously made up my mind to go, and would have gone, although the message had not been brought; but I was obliged to be from home on the Monday forenoon, and on my return in the afternoon, with the view of going to Gilmerton, I found the message had been left during my absence.

Mr. *Hume*.—When you mention Francis, in 1790, what you had l Mr. Lorimer, what did he say?

great distress; and said, that he had got similar accounts from different people, and that he did not know how to act, or what to do.

Was the panel much affected with his father's death?—Very much. He had paid particular attention to sir David during his illness, and I never saw a son behave with greater propriety, or give stronger marks of filial affection.

Did he remain at Gilmerton after his father's death?—Yes. That event happened on the 19th of February last, and the panel remained at Gilmerton (at least chiefly), till the end of March.

Did you ever hear him express any dissatisfaction at his father's settlements?—No. To me he expressed great satisfaction. In particular, I remember he frequently said, he should always have a grateful sense of his father's attention; by which I understood, he meant to express his gratitude for the annuity which his father had left him.

On the Sunday, when he came to your house, did he remain long?—About three quarters of an hour.

After you went up stairs, did you gather from him what business he had come upon?—I never got him to tell his purpose, except that he thought he was soon to die, and not even that, until I had reminded him two or three times, that he had said, that he had something to communicate to me.

Was his conversation connected?—He spoke very little, but walked up and down in the room with great agitation, while I attempted to amuse him, by talking about common occurrences

Did he ever express to you any dissatisfaction on account of his father's papers being destroyed?—No.

From your knowledge of him, what was your opinion of his disposition?—I used to be intimate with him: he honoured me with his confidence; and I always found him humane, warm-hearted, and generous; in particular, I had occasion to find out by accident, that he relieved a woman in great distress. The poor woman was very ill, and I felt it my duty to provide her with necessaries; but I found, upon inquiry, that the major had been supplying her with money, and that he had done so upon many former occasions.

Alexander Fraser, sheriff-clerk of the county of Haddington, examined by Mr. *Burnett*.

Were you in the use of doing business for major Gordon Kinloch?—Yes, I was his factor for some years on the estate of Woodhall, prior to the sale of it near ten years ago; and after the sale of it, occasionally did money business for him down to sir David's death.

After sir David's death, did you do business for him?—He gave me a factory to uplift annual rents and annuities, which was dated on the 3d of April last.

Do you remember the day on which sir Francis received the wound?—Yes, it was on a Wednesday.

Did you see the panel since that time?—I saw him on the Saturday before, in Haddington, but I never saw him since that business.

When you transacted business with the panel, did you think he understood what he was about?—Certainly, otherwise I would not have done business for him.

[Here the witness was shown and identified a letter from sir Francis Kinloch to him, dated the 15th of April last, and referred to in the indictment. It was expressed as follows: "See if you can find out the marriage contract betwixt my father and mother, as also lady Ashe's contract, and send them per bearer, that they may be laid before Charles Hay, along with my father's will. If Gordon and Saunders are not pleased with this opinion, they must judge for themselves."

The witness also read a copy of his answer to this letter, bearing the same date, and of the following tenor:—"Your father and mother's contract of marriage has not been found, but the infeftment upon it, which, with lady Ashe's contract, and also an obligation by sir Thomas Ashe, and discharge by them both, making in all four deeds, are herewith sent. I have communicated your letter to both your brothers."]

Mr. *Burnett*.—Do you recollect of sir Francis going to Edinburgh, to take the advice of counsel?—Yes, I think he went on Tuesday the 10th of March.

Do you recollect the reason of his journey?—Sir Francis told me at Haddington, that his two brothers had found fault with their father's settlement, and on account of sir Francis having burnt some papers. I advised him to lay his father's settlement before counsel, to know upon what grounds he stood, as the sooner he cleared matters with his brothers the better.

Which of the brothers was most dissatisfied?—He told me, that major Gordon Kinloch egged on, or stirred up the other.

Whose advice did sir Francis take on this matter?—He consulted Mr. Charles Hay. The advice came in a letter. Sir Francis desired me to communicate the opinion to his brothers. I accordingly gave the letter to Mr. M'Millan to be shown to the major and Mr. Alexander Kinloch; but before I had received it, I had a conversation with both the brothers upon the subject, and particularly with this gentleman at the bar. The result of this conversation was communicated to sir Francis by letter.

[Here the witness read copies of two letters from himself to sir Francis, the one dated 16th and the other dated the 17th of March last. That of the 16th was conceived in these terms: "Being only this moment come home, I have only time to inform you that from

what passed with both your brothers last night it is almost impossible that any dispute can arise. I shall write more fully to-morrow."

The letter of the 17th of March was expressed as follows: "Having talked upon the business to the major, the only thing he stated as a claim is 200*l.*, which he said he was paid short of the 1500*l.* The particular circumstances of one of his commissions rendered it unnecessary to advance the 200*l.*, but he said, that though that sum of 200*l.* may be some object to him, yet that he never meant to have any serious dispute with you about it; so far from that, he is quite ready to grant any discharge that shall be asked of him. He and Mr. M'Millan came up this morning with Miss Alston, and the major in the frankest manner repeated the same thing, which I told him I would immediately communicate."

"I had a conversation also with Mr. Alexander on Sunday night, and I am in justice bound to report, that he declared his perfect readiness to settle the business in the most friendly manner, reprobating every idea of a contrary nature. In a conversation afterwards with Miss Kinloch, she informed me, that she clearly pointed out to Mr. Alexander, that he had cost a great deal more than 600*l.* to his father, so that he had no cause to complain."

[The witness next identified the following letter from sir Francis to himself, without a date, but marked 18th March 1795 on the back, and referred to in the indictment, viz. "I never looked on Gordon and Saunders having serious intentions of going to law. Their doing so would be more pleasant than talking about burning papers, and talking nonsense, which can only originate in human infirmity."]

Mr. Burnett.—Do you recollect having any conversation with the panel respeting a paper which he said he had signed?—I remember, several years ago, he told me that he had signed a paper in the presence of his father, his brother sir Francis, Mr. F. Anderson, and Mr. M'Millan, which he believed was to disinherit him.—I told him that it was impossible. About a week after sir David's death, he spoke to me on the same subject; but as I found arguing the matter seriously would not do with him, I thought it the better way to turn it into ridicule, and said, "Sir, the persons that you say were present, are all alive but your father, why do you not prosecute and expose them."

Do you commonly keep copies of the letters you write?—Yes.

Is that the copy of a letter which you wrote to major Kinloch?—Yes.

[The witness then read a copy of a letter from himself to the panel, dated the 21st of April last, and expressed thus: "As you was *pleased lately to grant a factory to me, and to lodge papers of value in my hands*, it appears to me very proper to inform you, that in consequence of the late fatal occurrence at Gilmerton, a trial must take place, and to know from you if you wish to retain counsel for your defence, which in that case shall be immediately done, and also to know who are the advocates and agent you wish to be employed."]

The witness then identified the two following letters from the panel to him, viz.

Haddington Gaol, 22d April, 1795.

"Sir; I received your letter last night, couched in a stile not like the usual, owing as I suppose, to the late most unfortunate occurrence. The reason of my not seeing you, owing to your official capacity, I by no means (if allowed to think) think a good one. I do not see any impropriety in your coming to me once to confer on business. If after reading this, your opinion should be still the same, let me know; and if my message was delivered at Gilmerton, which was given to Mr. Dodds."

"Sir; *April* 22, 1795.

"Please send me the note of Mr. Dalrymple for 62*l.* 2*s.*"

[The witness next read a copy of his answer, dated the 23rd of April, and of the following tenor: "I received both your cards late last night, and not having been informed that you was to go off this morning, I put off answering them till about breakfast time, when I was informed you was gone. The only thing that now requires an answer, is your demand to get up Mr. Dalrymple's note for 62*l.* 2*s.* The advice I got about your property under my charge was, to advance the ready money for necessaries to you, and consulting counsel for your defence, if you choose to retain any. I accordingly intimated to provost Hislop, that all necessaries furnished to you should be paid; and I need not repeat that I wrote you about retaining counsel.—I was further advised, that I was not warranted to deliver up any other part of your property but by legal authority; so that I cannot comply at present with your request about Mr. Dalrymple's note. At same time, if the acceptor proposes to pay the contents of it, it seems to me very proper, to take the money, and lodge it in the hands of your bankers as part of your property. Your message to your brother was delivered, but he returned no answer. Mr. Goldie said he would call."]

Lord Advocate.—The gentlemen of the jury will observe, that this letter alludes to the panel's being removed to Edinburgh.

[The witness then identified the following letter, which he had received from the panel by post, and is referred to in the indictment, viz.]

"Sir; *Edinburgh Gaol, 24th April, 1795.*

"I wrote you from Haddington, requesting you would send the commissary bill of 25*l.*

Dalrymple of sixty-two pounds, two shillings. I do not mean that it should appear against him."

Lord Advocate.—You have known this gentleman several years. Did you ever imagine he was insane?—I have sometimes observed him peevish and discontented; but I never saw any marks of insanity in his appearance, till Monday the 13th of April last, when it occurred to me, from the recollection of some circumstances in his behaviour on Saturday the 11th (on which day I had seen him at Haddington), that the state of mind in which he then appeared to be, had been in its progress on the Saturday.

What state of mind did you think him in on the Monday?—Downright mad; that is, he appeared to be deranged, or as if the rational powers of his mind had left him; and sir Francis thought the same.

Did you, such being your opinion, propose securing the panel?—Yes, I did.

What reason had you for believing him deranged?—His wild appearance and behaviour. I should have mentioned, that I was on my road to Gilmerton on the Monday, when a servant met me, and put into my hands a letter from sir Francis, which began with these words: "I am sorry to inform you, that Gordon is stark mad;" and sir Francis added, that George Somner had been sent for, on account of the major having told Miss Kinloch, that he had swallowed poison, though, whether the case was so or not, sir Francis could not say.

Have you that card?—No.

What became of it?—It was torn in pieces, and committed to the flames. Sir Francis and a Mr. Low (who happened to be at Gilmerton at the time), having walked out, I was left with no other company than the major, whose behaviour, as he both spoke and acted in a most extravagant manner, rather alarmed me. At one time, he brought into the parlour a blunderbuss, with which he walked up and down the parlour, making many wild motions, and sometimes holding it in the position of presenting; and I had occasion to see him put a flint into it, prime it, and load it with powder. At length, to my great satisfaction, he carried it out, and placed it in a chaise which was waiting for him at the door, and in which he left Gilmerton. But while we were together by ourselves, as already mentioned, I happened inadvertently to take sir Francis's letter out of my pocket, and observing the major coming towards me, and being afraid he would see it, I tore it in pieces, and committed it to the flames; and indeed I thought it a lucky circumstance, that he did not see it.

Did the panel appear much agitated upon this occasion? He loaded the blunderbuss with great difficulty. His hands shook in a most extraordinary manner.

Alexander Fraser cross-examined by Mr. *Hume.*

Did it appear to you, that all risk of disagreement between sir Francis and the panel was over, after the conversation you had with him?—It appeared to me that all differences was at an end, and it gave me great satisfaction.

What was sir David's settlement?—The sum he left to each of the younger brothers was 1500*l.*—Mr. Alexander got only 900*l.*; but Miss Kinloch explained to him, that he had cost his father a great deal more than the other 600*l.*, and he was satisfied.

Had you any conversation with the panel about the renunciation which he supposed he had signed?—I had; it appeared to me, that this opinion of his was wild and absurd.

When you were alone with the panel on the Monday, in the parlour of Gilmerton house, did you conceive yourself to be in danger?—I felt myself in a very disagreeable and dangerous situation.

Did Miss Kinloch give you any information of his behaviour on the preceding night?

[Here the witness looked at some notes which he said he had taken in his calmer moments, after he was informed by some of the gentlemen in court, that he was likely to be called upon to give evidence in this trial. He then proceeded as follows, reading from the notes.]

When I arrived at Gilmerton, Miss Kinloch was in the parlour, and soon called me to the lobby, and informed me, that they had been much disturbed and disconcerted, and even alarmed by the major's conduct the preceding night; that he had been very restless, having gone from room to room, throwing himself upon the beds. She reflected upon his drinking too much brandy and gin said preceding night, and she also informed me, that he had told her he had swallowed poison.

Lord Advocate.—I must object to this mode of proceeding.* There can be no objection to a witness refreshing his memory from notes, before he comes into court; but he is not to prepare a paper, then come to the foot of this table, and read his narrative from beginning to end, and then to go away. That, I say, cannot be admitted as evidence.

Lord *Eskgrove* signified that he agreed in opinion with the lord advocate.

[The witness was ordered to withdraw.]

Mr. *Hope.*—My lord, I trust I know something of law, and have some idea of common sense and reason; and I believe, I know something of the law of evidence also.

My lord I admit that if a witness were to take from his pocket a paper, lay it on the

* See Burnett on the Criminal Law of Scotland, p. 458.

table, and say there is my evidence, and then walk away, such a proceeding could never be permitted by your lordships; but the case is very different, when a witness, after an affair has happened, who because he was not present at the accident, could not know or suspect that he was to be a witness, takes down notes as soon as he is informed that he is to be called upon, and looks at them here, to assist his recollection on a specific question being put to him.

When I undertook the defence of the panel, I felt it my duty to investigate the matter to the bottom, and to discover every thing that the witnesses could say. In the course of my inquiries at Haddington, I saw Mr. Fraser, who told me several very material circumstances I went to Gilmerton to see what could be made out from the information of the family, and there it was that I learned from the servants that Mr Fraser had been there the day before the accident happened. When I came back to him next morning he had been recollecting in his bed, and now remembered a number of circumstances that had escaped his memory on the day before. Then said I, "Mr. Fraser, put down in writing all that you remember, as each circumstance occurs to your recollection, for as you did not recollect these things last night, it is probable that you may not recollect them when you come before the Court, concerned and agitated as you may be." Now, my lord, was there any thing improper in this?

Court.—No.

Mr. *Hope.*—Then is not the witness bound, by the obligation of the oath which he has taken, to look at his notes? for that oath requires him, not only to tell what he recollects, but all that he knows or shall be asked of him. If therefore, a witness is conscious that things may have escaped his memory, he is bound to resort to any means that can render him more accurate.

If a witness takes down notes at the time an affair happens, he is always allowed to resort to them to refresh his memory. The case is the same with a person who takes notes the moment he is told, that he is to be called as a witness. The notes are the best evidence he can bring, and he is equally entitled to use them.

Had it been, as the lord advocate said, to read a paper from beginning to end, and then go away, the matter would have been very different indeed; but, my lords, it was but on one question that the witness had recourse to his notes, and how does the lord advocate know that he is to use them any more? I say, in law, in reason, and in justice, he is entitled to use them when his recollection fails. I do not desire, that he shall read his notes from beginning to end, but only that he may be allowed to use it occasionally to refresh his memory. I say, with submission, and with some degree of confidence in the judgment of the

Lord Advocate.—For all that I have heard, I still feel it my duty to state the contrary opinion. My brother misunderstood my meaning, if he thought I imputed to him any thing improper in the activity and zeal he has shown in this cause, much less do I care whether the paper was read from beginning to end, or partially. I can have but one desire, in common with the jury, the due administration of justice. But, my lord, I repeat again, that my objection is well founded.

If, in the course of examining any witness, he shall find himself at a loss, and desires to consult notes taken on the spot, and at the very time a transaction happened, I say it is competent for a witness so to refresh his memory: but it is not so with notes taken at a distance of time; they must be taken immediately, because it may be in the power of a witness, by the means of such notes, to make up so connected a story, that I defy the counsel on either side to make out the fraud.

I am far from saying, that this witness has any such design. I am far from supposing that the gentlemen, who conduct this trial, could take any unfair advantage; but, as public prosecutor, it is my duty to prevent the establishment of any bad precedent. What has been done in this case, may be done in others, by low attornies; not by counsel,—I cannot suppose it of them.

I agree to this, that in general, if a witness does not recollect, he may look at notes taken at the time. But I demand of the Court, if notes taken at a distance of time, ought to be admitted in evidence. I ask you to judge. I am bound to obey;—and to that judgment I always submit with pleasure.

I shall only add, that it was held in the trial of Mr. Horne Tooke, that notes taken at a distance of time could not be used by a witness. The point was long and ably contended by both sides of the bar, and at last decided against the admission.

Lord *Eskgrove.*—There are certain rules which we should never relax. If a man comes to this bar as a witness, he is to swear to what he now remembers, not to what he formerly remembered. How would it answer, were we to suffer the public prosecutor to produce the declaration emitted by a witness in his precognition before the sheriff, and say to him, "there is a paper which you have signed, read it over, and give it as your evidence?"

A man who has been present at any interesting occasion, when he expects to be called upon as a witness, may take notes, and produce them in court; but this is very different indeed from a narrative taken at the distance of weeks.

I can make no deviation from a general rule, and therefore I am decidedly of opinion, that the witness is not entitled to use these notes.

Lord *Swinton.*—A witness may make use of notes taken down at the time an affair happens, but not when taken down weeks after-

wards. There would be no harm in the witness looking them over before he came in here, but to take them out here, is against all rules.

Lord *Dunsinnan* agreed with the above judges.

Lord *Craig* thought the witness might have recourse to his notes, when any particular question was put to him.

Lord Justice Clerk.—I do not know, my lords, that we should differ much, if we knew what we were debating about.

That a witness is not allowed to take out a paper, read it over, and then say, there is my evidence, this I allow; but it is admitted by your lordships,—it is admitted by the lord advocate,—that a witness may make use of notes taken at the time the fact happened. Now, where is the difference, though they are taken *ex post facto*, if he is ready to swear that he took them down with a good recollection? I therefore think, that if the witness does not recollect any circumstance, he has a right to look at his notes before he answers the question; and then, if he says upon the great oath which he has taken, that these are facts, they ought to be received in evidence,—not indeed giving the notes as his deposition, but using them only for the purpose of refreshing his memory.

Mr. *Hope.*—Your lordship must know, that that was all I asked.

The Court decided by a majority, that the witness was not entitled to look at the notes.

The witness was then recalled, and informed that it was the judgment of the Court, that he must not take out his notes; after which, the examination proceeded.

Mr. *Hume.*—Did you mention the opinion you had formed of the panel to any of the family?—I told Miss Kinloch that it was my opinion, that matters were now arrived at that crisis, to make it necessary to confine him.

Before you gave that opinion, had you seen the major?—No, but after seeing him, I was confirmed in this opinion, and thought he was actually dangerous to mankind. I imagined that he would do mischief to some person or another; and I thought it, in particular, very dangerous for sir Francis, as one who was going near him, especially after seeing him prepare destructive weapons, having never observed any tendency of that kind before.

Had you any conversation with sir Francis on the Monday?—Sir Francis sent for me to the garden. I was at that time standing with the panel in the front of Gilmerton house; and he said, "Why go to the garden? Let sir Francis come to you." I replied, "I will go to sir Francis wherever he calls me."

What was the tenor of the conversation you had with sir Francis?—Sir Francis was exceedingly vexed, and seemed to be affronted at his brother's situation.

He seemed *affronted*, did you say?—Yes, he appeared to me to feel, as it were, a sort of *family affront*.

Was this before the blunderbuss scene?—It was.

What farther conversation had you?—A good deal more conversation passed between sir Francis and me.

What passed after Mr. Somner and you were together?—Mr. Somner and I, in our conversation, agreed that the major was deranged; and I afterwards informed sir Francis of the blunderbuss and other circumstances, and pressed upon sir Francis the necessity there was for securing him, as he appeared to me a most dangerous person, particularly about that family. Sir Francis seemed to be of the same opinion; and he then informed me, that he had bolted his room-door in the inside on the Sunday night; and I agreed that he was very right in so doing.

Had you any transactions formerly, which led you to suspect that the major was insane?—The major was owing a debt to a Mr. Hepburn, a neighbouring farmer. In May 1789, he left for me with a Mr. Veitch, a draft for a sum of money to pay this farmer. When I looked at the draft, it appeared to be for about 100*l.* more than was due. But perhaps I had better read the correspondence that passed at the time.

[Here the witness read the following correspondence between the panel and himself, viz.]

Card—Mr. *Kinloch* to Mr. *Fraser*, no date, quoted by Mr. Fraser, 7th May, 1789.

Mr. G. Kinloch's compliments to Mr. Fraser, and incloses him a draft for 430*l.* on Mansfield, Ramsay, and Co. for the discharge of his bond to Mr. Hepburn, and which he has requested of Mr. Veitch to give him on his arrival from Pencaitland.

Card—Mr. *Fraser* to Mr. *Kinloch*, 8th May, 1789.

A. F. presents very respectful compliments to Mr. G. Kinloch, acknowledging receipt of his favour, inclosing a draft to Mr. Hepburn for 430*l.* But Mr. G. K. will please recollect, that the principal sum due to Mr. Hepburn is only 300*l.*, bearing interest from Lammas, 1787. And as Mr. H. was told, on the 17th March last, that he should be paid at three months from that date, so the whole sum due to him, upon the 17th June next, will be only 328*l.* 2*s.* 6*d.* And therefore, the neat way of settling the business appears to be, to draw a bill upon Messrs. Mansfield and Co. for that sum, payable to Mr. Hepburn upon the 17th June.

The draft for the 430*l.* shall be returned to Mr. G. K. when A. Fraser shall know with certainty where to address to him.

Card—Mr. *Fraser* to Mr. *Kinloch*, 30th May, 1789.

A. Fraser's most respectful compliments to

Mr. G. K.; hopes the letter of the 8th of May has come safe to hand, though it lay in the post-office at Edinburgh until it was forwarded to Moffatt by directions from A. F. Begs leave to inform Mr. G. K. that Mr. Kinloch wishes to pay up the amount of his note of hand, and interest due upon it, and offered the money to A. F. provided the amount could be ascertained; but as neither Mr. Kinloch or A. Fraser could exactly recollect the sum, and the period since the interest begun to become due upon it, so Mr. G. K. will be pleased to send the note of hand to A. F. and the contents of it (including principal and interest), may be credited in part of Mr. Hepburn's debt; and in that case, Mr. G. K. need only send a new bill for the balance that would remain due to Mr. Hepburn, after deduction of the sum of Mr. Kinloch's note.

A. F. has taken the liberty to propose settling the business in the manner above stated, as he believes it to be the most easy and convenient way of doing it. And he will send the bill for 430*l.* to Mr. G. K. whenever he will receive his instructions for that purpose.

Card—Mr. *G. Kinloch* to Mr. *Fraser*, 2nd June, 1789.

Mr. G. Kinloch's compliments to Mr. Fraser, and as the plan pointed out to him for clearing all accounts, appears to be the most proper, he has sent the note, amounting with interest to 70*l.*, which deducted from 328*l.*, amounts to 258*l.*, which will clear his debt to Mr. Hepburn; and for which purpose, he has sent him an order on Messrs. Mansfield, payable to Mr. Hepburn at 14 days after date; and requests of Mr. Fraser to send the note given for 330*l.* to Moffatt.

P. S. In reading over Mr. F's card, there is a mistake in the sum due to Mr. Hepburn, being at most 330*l.* instead of 430*l.*, as specified by him.

Card—Mr. *Fraser* to Mr. *Kinloch*, 4th June, 1789.

A. Fraser's compliments to Mr. G. K. acknowledging receipt of his favour, with Mr. Kinloch's note of hand, and draft for 258*l.* amounting in all to 328*l.* which will pay up Mr. Hepburn's debt.

Returns inclosed the draft for the 430*l.* and is sorry that he should have called Mr. Hepburn's debt, 430*l.* in place of 330*l.*, and of this mistake he had not the smallest recollection.

Mr. G. K. will please acknowledge receipt of the draught for 430.

A. F. sent a message lately to Adam Mitchell about the balance of the wood money, but he has returned no answer. A. F. thinks, that without distressing Mitchell, some part of this balance may be recovered, indeed *Mitchell said so himself.*

Mr. *Kinloch* to Mr. *Fraser*, 20th June, 1789, —*Moffatt.*

I was favoured with your letter, inclosing my draft to Mr. Hepburn for 430*l.* I must, and do confess myself to have been much mistaken in saying that you stated my debt to Mr. Hepburn to have amounted to that sum, but it was entirely owing to myself, in giving a draft for 100*l.* more, which escaped my memory.]

Mr. *Hume.*—How was the matter settled at last?—It was finally settled in the way I recommended, by a note for the nett sum due being sent to me.

Did the panel after the matter was so settled, ever recur to the subject?—Yes, at the distance of several years. In May 1793, when I happened to be at Gilmerton, the major took me aside, and told me very abruptly, that he could not recollect that a draft or bill which he had left with Mr. James Veitch, to be given to me, had ever been returned; or expressed himself to this purpose, and added, that this circumstance had given him very great vexation, and more than he could tell. To this I answered, that I was astonished at what he mentioned; for I was fully convinced, that no such inaccuracy or mistake had happened on the part of Mr. Veitch, who was then no more; and as for myself, that I was sure that I was perfectly clear, and would be able, on looking over my correspondence on the business, to explain it in the most satisfactory manner.

Did you accordingly give such information?—Yes, on going home, I examined the correspondence already recited, and wrote a card to the panel, recapitulating the import of it. This card was dated on the 20th of May, 1793.

Did this explanation satisfy the major?—Yes, I had occasion to be at Gilmerton soon after, when the subject was introduced; and the major not only declared his perfect satisfaction with the explanation, but seemed much ashamed, and hurt at the want of recollection on his part, which had rendered it necessary; adding, according to the best of my recollection, that, at the time the said money transaction took place, he had been much distracted in his mind.

Did you not, some years ago, receive a letter from the major, dated at London, which induced you to suppose his mind at that time very much disturbed?—Yes, its contents were so strange as to impress me with the idea, that he was in a desperate situation, both as to his mind and purse.

What became of this letter?—It having occurred to me, that the same should be immediately communicated to the family, I sent it to Mr. Alexander, requesting that he might show it to the late sir Francis.

Was it returned to you?—No. I sometime afterwards asked Mr. Alexander, if he had received it, and he acknowledged that he

bad; but nothing farther, to the best of my recollection, passed on the subject.

Do you recollect having any conversation with sir Francis respecting the panel, soon after sir David's death, in which sir Francis expressed an apprehension with respect to the panel's situation?—Yes, soon after his father's funeral, sir Francis said to me, that he thought Gordon was getting into one of his unlucky fits.

Mr. *Hope.*—I believe the panel's pocket-book is in your custody?—Yes.

[The contents of the pocket-book were exhibited by the witness.]

Mr. *Hope.*—Was there found in that pocket-book, a copy, holograph of the panel, of a letter to Mr. Francis Anderson, on the subject of the supposed renunciation already mentioned?—Yes, here it is.

Mr. *Hope.*—You have seen, gentlemen of the jury, that twice over, at the distance of years, the panel spoke to the witness of this renunciation; and, with this vagary still in his head, he actually wrote to Mr. Anderson on the 17th of December, 1792, a letter, the contents of which you shall now hear.

[Mr. Hope then read the copy of the letter, which was of the following tenor: "As I am now winding up matters, and being ignorant of some things in which delicacy prevents me from asking my father, and in which you can resolve me, I now address you for that purpose. It is to know the tenor of the sheets of paper, which I signed in your presence here in the year 1788, of the contents of which I was and am ignorant. Though it may appear extraordinary, that I subscribed to that, of which I did not know the purport, yet that surprise will cease, when said at the desire of a father, to which refusal I ever was a stranger, it was done. In my request of favour of answer, I hope there is nothing unbecoming honour and business. In this idea I subscribe myself."

Mr. *Hope.*—Have you Mr. Anderson's answer to this letter?—Yes, it is likewise here.

Do you know this to be Mr. Anderson's hand-writing?—Yes.

What is the date of this answer?—It has none, but refers to that of the panel's letter.

[Here it was mentioned, that in case this should be thought necessary, Mr. Anderson had been cited for the purpose of authenticating his letter, but the lord advocate agreed that this was unnecessary; and the letter was then read, being expressed as follows: "I am this day favoured with your's of yesterday, and should be happy, were it in my power, to satisfy you, but I have not the most distant recollection of any papers you signed in my presence, in the year 1788. I observe from our books, that all transactions with regard to your sale to lord Wemyss of Woodhall, was finally closed at Whitsunday 1786, and the balance paid you on the 27th of May, 1786. Since which there has been no transaction betwixt us. Will you make my best respects to sir David, and tell him, he may depend on seeing me early in the next year. And I shall be happy, if, from any circumstance you can bring to my recollection, any thing that may tend to satisfy you as to what you wish to know; but this I am certain of, that I never presented any paper to any person to sign in my life, without explaining the nature of it to them, and making them read it. My best wishes ever attend you all."]

Hugh Dodds, clerk to Mr. Fraser, examined by Mr. Burnett.

Did you see the panel in Haddington gaol?—Yes. I saw him there on Wednesday the 15th of April, in company with Mr. Hay Smith.

What conversation then passed?—Nothing particular; only the panel expressed some dissatisfaction with his situation, there being no fire in the room.

When did you again see the panel?—I waited on him with a written message from Mr. Fraser, in answer to several messages from the panel.

What was the import of this message?—It informed the panel, that he might give any message to me which he might have occasion to send on business; and he would get an immediate answer.

What did the panel say, on receiving this message?—He said, that he supposed he might understand he was never to see Mr. Fraser again; and that he could not get a distinct answer, unless he saw Mr. Fraser himself.

Did you again see the panel?—Yes, on the Tuesday thereafter.

What was the occasion of your seeing him then?—To be present at the intimation of a petition for appointing managers to the estate of Gilmerton.

What passed?—The panel read over the petition, and (on my explaining the nature of it), said, he had no objection to it, and signed a consent, which I wrote out.

Did any thing farther pass?—Yes; he proposed to keep the petition, and to consider of the matter for forty-eight hours; but I declined leaving the petition with him, and, at his desire, scored out the consent.

Did he, notwithstanding, agree to the application?—Yes, before I went away, he desired another consent to be written out, and signed it.

Lord Justice Clerk.—When you had occasion to see the panel, did he speak rationally and coherently?—Yes.

Lord Advocate.—There are a variety of witnesses whom I have not brought forward, and I do not intend to bring forward. As for one witness, the first in the list annexed to the indictment, namely, Mr. Alexander Kinloch, the jury may have expected to see him here; but after the evidence which has been ad-

duced, I am not disposed, and consider it unnecessary to put that gentleman upon so very disagreeable a piece of duty.

As to the other witnesses in the list annexed to the indictment, if there are any of them whom my brother wishes to bring forward in exculpation, it will be competent for him to call upon them. But on the declaration which the panel emitted before the sheriff being read, I here close the evidence upon the part of the crown.

The counsel for the panel having admitted the identity of the declaration, the same was then read. It was expressed in the following terms:—

DECLARATION.

"At Edinburgh, the 30th day of May, 1795 years. The which day, compeared in presence of James Clerk, esq. advocate, his majesty's sheriff-depute of the shire of Edinburgh, sir Archibald Gordon Kinloch of Gilmerton, who being examined by the sheriff and being informed by the sheriff of the reason of his being brought before him, and having likewise acquainted him, that it was in his option, either to refuse to answer those questions that might be put to him, or to return such answers as to him might seem best, he answered, that there was no question could be put to him, but what he was ready to answer in the face of heaven:—And being interrogated, if he recollects what happened at Gilmerton on the 15th of April last? declares, that he has a very indistinct recollection of what then happened, as he was then quite deranged. Interrogated, if he recollects having fired a pistol on the morning of that day, and at whom? Declares, that he has a very confused recollection of it, but does think he fired a pistol; but where, how, or at whom, he does not recollect; and that he was in such a state of derangement, that he is now convinced, that he would have fired the pistol at any person that then came in his way. Interrogated, as the declarant now appears to consider himself in a settled state of mind, and recollects what has happened, he is desired to say at what period his derangement ceased? Declares, that he cannot say when he recovered from his deranged state, but that he has been greatly better since he has been brought to Edinburgh, although still at times, when particular thoughts come across him, he feels a temporary derangement. Interrogated, if he is sensible at what time his derangement commenced? Declares, that he cannot say; but he felt it coming on for sometime before the unfortunate accident happened. Interrogated, if he was satisfied with his father's settlements? Declares, he was so, and never expressed any dissatisfaction at them, but was grateful for them. Interrogated, if he ever complained of any papers of his father's having been burned after his father's death? Declares, he does not recollect of having done so. *All this he* declares to be truth. Emitted also in presence of Mr. William Sim, procurator-fiscal of the county of Edinburgh, Joseph Mack, writer in Edinburgh, and William Stephens, sheriff-officer in Edinburgh; and read over to, and adhered to by the declarant."

EXCULPATORY PROOF.

Lieut. Colonel *Samuel Twentyman* examined by Mr. *Hume*.

Are you acquainted with the panel, sir Archibald Gordon Kinloch?—Yes.

At what time, and on what occasion did your acquaintance commence?—In the year 1778, sir A was a captain in the 65th regiment, I a lieutenant in the 18th at that period; the two regiments were encamped at Coxheath, and in the same brigade. This circumstance naturally produced a frequent intercourse between the officers of the two regiments, and I then became acquainted with sir Archibald.

In what estimation was the panel then held?—I can affirm, that no officer was more universally esteemed and beloved than he was throughout the whole line, by both officers and men; his generosity, good temper, sociability, and general good conduct, made him very popular both in his own and other regiments.

Had you afterwards any opportunity of being still more intimately acquainted with the panel?—In the year following, I was nominated by the late duke of Ancaster to a company in the regiment his grace was then raising; and on the much lamented death of that amiable young nobleman, sir A. succeeded him as major. This, by placing us both in the same regiment, gave me an opportunity of observing sir A. more minutely; and having sailed with him in the same ship part of the way to the West-Indies, that opportunity was increased: I can only repeat what I have said in regard to his general character; and in all those different situations, I found him friendly, liberal, sociable, and humane, possessing every good and gentlemanly quality.

At what island were you landed?—We were landed at St Lucia, and there stationed.

Was not the panel seized with a fever at St. Lucia, and what were its effects?—On that island sir Archibald was seized with a most malignant fever, which deprived him of his senses. I have seen him in his bed in the highest state of delirium, held down in his cot by a soldier on each side, and, to use a common phrase, raving mad. I had several opportunities of seeing him while he remained on that island, and while he laboured under that dreadful malady; and I have frequently been present when he was talking of me, and did not know I was there.

Do you recollect, whether the panel was removed to a different island, who accompanied him, and any occurrences on the voy-

age?—It being thought advisable to have him removed to Barbadoes for change of air, as the only possible means left of saving his life, lieutenant Fawcett, who all along kindly attended him, requested me to permit him to accompany sir A. to Barbadoes, which in course I granted. During the passage, sir Archibald's servant caught the fever, attended with the same symptoms, and, in one of the paroxysms of it, threw himself overboard, and was drowned. I have had several conversations with lieutenant Fawcett upon this subject, after our return to England, and he was of the same opinion with myself, in regard to the decided derangement of sir Archibald's intellects, undoubtedly the effects of this fever. Lieutenant Fawcett is now in India.

On the panel's return to Europe, did you remark any change upon him?—I was myself particularly struck with the manifest change I perceived in sir Archibald, on my first seeing him in England, after this fever; not so much from a change on his outward appearance, but from a total alteration in his conduct, manners, and conversation.

Did you purchase the panel's majority?—Yes, in the beginning of 1783.

What observations did you then make on his behaviour?—We dined several times together during the negotiation. At these meetings, I observed an uncommon change in sir Archibald, a degree of flightiness, a wildness in his appearance, and a kind of conduct perfectly different from what I had observed in him, previous to the date of the fever; as, prior to that, sir Archibald's manners in society were affable and conciliating. After my purchase from him, many opportunities of seeing did not occur; and, convinced of his derangement, I rather avoided than sought them.

Do you recollect any particular opportunities of seeing the panel after this period, and what did you observe in his conduct?—About four or five years after the fever, I was on a visit in the neighbourhood of Lincoln. Sir Archibald came to that town. He sent a post-boy to me with a note, begging I would come over immediately on very particular business. When I came to him, he had no business whatever, nor would tell me what he was about, whence he had come, or where he was going.

Do you recollect seeing him at Lincoln after this period, and any particulars which then occurred?—Yes. The year following sir Archibald came a second time to Lincoln, when his conduct was much more extraordinary than on the former occasion. A message was sent to me from one of the inferior inns, that a person begged to see me immediately. I returned for answer, that not being in the habit of going to people, whose name or business I was unacquainted with, the person must be more explicit, before I could determine about calling upon him. Several verbal messages passed to the same effect. At length a note came, urging me to come immediately; that it was business of a most particular nature. I was excessively surprised at this note, and curiosity led me to go, and see who possibly could be the author. My surprise was still farther increased, when on entering the room, I beheld sir Archibald. I questioned him, how he could be so ridiculous in not sending me his name? He replied, that he had something very particular to communicate to me; and as he did not wish to be known, he would not send his name. I begged to know what this business was. He went to the door, to observe whether it was fastened; and then began a long story, to me totally unintelligible, flying from one thing to another in the most incoherent manner, and talking of projects that he had, none of which he would explain. Sir Archibald dined at my house that day. Colonel Gardiner, a very gentlemanly and well-bred person was of the party, a perfect stranger to sir Archibald. To this gentleman, without any apparent cause whatever, sir Archibald, at first sight, conceived an absolute antipathy, and behaved to him very rudely and in the most boisterous manner and totally different from his former conduct; yet, on a sudden, his disposition changed so much, that he jumped from his chair, threw his arms about colonel Gardiner's neck, kissed him, and seemed as much pleased with the colonel's company, as before he had shown aversion to it. When he left Lincoln, he would not tell me where he had come from, or where he was going. The people of the inn thought him a most extraordinary being: they judged from his way of speaking to them, and odd manner of conducting himself.

When, and where did you last see the panel; and what did you then remark?—The last time I saw sir Archibald was near the Adelphi. He formerly used to be very particular in his dress, that is, remarkably neat and clean; he then was quite otherwise, his hair uncombed, his shoes and stockings excessively dirty (not apparently dirt collected from that morning's walk), but as if they had not been cleaned for some days. We had some conversation, but his speech was so confused and incoherent, that I could not understand him. I was excessively glad, upon this occasion, to get rid of him; for it was distressing to see him so changed, so different from what he formerly had been. I may have seen him casually two or three times previous to the above meeting, and was confirmed in my opinion, in regard to his derangement; but, particularly the last time, I thought that the malady had increased.

Do you think that the fever in the West Indies was the cause of this derangement?—Certainly.

Did it ever appear to you that the panel entertained the same notion himself?—I have observed him at times put his hand to his

When did the panel leave the regiment?—In the year 1779, when he was promoted to the majority of the 90th regiment, along with which he went to the West-Indies.

When you next saw the panel, did you observe any change upon him?—When I saw him after his return to Britain, he informed me, that he had been attacked by a violent fever at St. Lucia, which had greatly impaired his health.

Did you see him soon after he returned?—I did not see him till 1789. We met by chance in the Strand. I was surprised to find him so much altered. Formerly he was a most conversable gentleman, the mildest and most humane character; but now I observed a most remarkable change.

Was the alteration in his manners, or in his bodily appearance?—Both. He was very slovenly in his dress, and his hair, which was formerly a fine brown, was now turned white. He often told me, that he had always been disturbed in his mind since he had the fever in the West-Indies.

Do you think the alteration in his temper might be the effects of intoxication?—No. We dined frequently together in coffee-houses in London, when we never drank above a bottle of wine between us, and I never saw him but sober; though his conversation was often wild, by what I had been used to.

Had you occasion to see the panel in 1790?—Yes. In October that year, I received a letter from him, dated from a hotel in Oxford road, pressing me to come to him immediately, as he was in a very bad state of health, and had no relation or acquaintance in the world that he cared for but myself. I was then at Huntingdon recruiting, but immediately went to London. On calling at the hotel whence the letter was dated, I could get no account of him, except that a strange sort of a gentleman had staid there for a few days, and had gone away without saying whither. I, however, found him at last very ill, in bed, at Old Slaughter's coffee-house in St. Martin's-lane, kept by one Reid. I staid with him a few days in the same house till he got better, and then returned to Huntingdon.

When did you next see the panel?—In November following, he came down to Huntingdon to see me, and staid two or three days, and then set off for Scotland.

Did you remark any thing particular in his conversation at this time?—He frequently repeated to me his distressed situation of mind; and he told me some odd stories of himself, such as that he had gone about England in stage-coaches and stopped for days, where strolling players were acting in a barn, when he engaged himself as fiddler to them, and many other acts of that sort, which clearly proved to me his derangement of mind. At this time he was dressed in black (I believe *one of his* brothers had died recently before); *and he told me*, that he would never alter the *dress, as he* was determined never to mix with the world again; and he actually sent many of his coloured clothes to my lodgings, to be disposed of as I might think proper.

Lord Advocate.—When you conversed with him, were the answers he returned to your questions rational and coherent?—Sometimes he returned correct answers, at other times they were quite incoherent.

Miss Kinloch.

This lady was in the outer Parliament House. Mr. Hope waited upon her by permission of the Court, to inform her, that she was the next witness he meant to adduce. He remained only a few minutes, and when he returned, addressed the Court in the following terms:

My lord; I am now under the necessity of calling upon your lordships to review your former judgment. I have been with Miss Kinloch, and I found her in a condition which I cannot describe. In such distress, that, by heavens! were it my own life that was depending, I would not ask her evidence. She has declared to me, that unless she is permitted to look at her notes, she cannot promise to answer a single question. Will the Court, under these circumstances, adhere to the judgment already given?

Lord Advocate.—In the conduct of this trial, as in all others which it has been my lot to manage, I have been guided by the principle of public duty. However much I may be affected by the distressed and melancholy situation of the family, I cannot discriminate between the case of this lady, and that of the poorest woman in the kingdom. I must not yield to my feelings: and I will not, on any consideration, deviate from the line of equal and impartial justice.

That he or she, who, upon a question being put, does not recollect, may look at notes taken at the time, and then make answer, is what I shall not oppose; but, my lord, if any thing more is meant, I do say that it is contrary to the practice of this Court, and would be establishing a most dangerous precedent. If, therefore, this lady cannot give her evidence in this manner, I must, however painful the duty may be, object to any deposition which is made by reading from notes of another kind.

Mr. *Hope.*—My lord, since I began to make the nature of law my study, I have always thought, that if there is one maxim which ought to be held more sacred than others, it is, that mere form shall never stand in the way of truth and justice. Now, my lord, how are these to be obtained, if witnesses are to be precluded from giving their evidence, in the only manner in which they possibly can give it?

We have brought forward many facts with regard to that species of insanity with which the panel is afflicted. We have traced him in his wanderings about the country, but do your lordships imagine, that these were the

and disposition were totally changed; that he had often observed him to behave in a most inconsistent manner; and that he attributed all this to his West India fever; for he was not the same man since his return to Europe, that he had been before he went out to the West Indies. In summer, 1790, I happened to be one day in the coffee-room at Greenock, and was much surprised to see major Gordon enter. I immediately perceived a wildness in his looks, which I had never seen before. He told me, that he had posted all night from Berwick without sleeping, to find me out, in order to communicate to me matters of the utmost consequence to himself, as he looked upon me to be his most confidential friend. I asked him what he meant? upon which he took a letter out of his pocket, and gave it to me, saying, "Read that, and then be convinced how ill I have been treated by my whole family." This was a letter from his brother Mr. Alexander, acquainting him with the death of their brother captain David, very expressive of the distress the family were in upon that melancholy occasion, and full of affection towards the major himself, earnestly entreating him, at the desire of sir David and the rest of his family, to return to Gilmerton. Upon my observing, that this letter was very foreign to the subject he had mentioned, he replied, "That letter is a sufficient proof of the truth I have told you, and I have no other proof." At this time, the major appeared to me to be quite deranged in his mind. I told him, that he seemed to be much indisposed, and pressed him to go to bed to try to get some sleep, after his fatiguing journey, and also to remain with me at my sister's house, who lived in the neighbourhood of Port-Glasgow; but all this he positively refused to do, and said, that he was obliged to return immediately to Berwick, where he proposed sleeping that night, and instantly set out, notwithstanding I used every argument in my power to dissuade him from his purpose. The next time the major appeared to me to be in a deranged state of mind, was in Dumbreck's hotel in Edinburgh, four or five days before the death of the late sir Francis Kinloch. One of the waiters having told me he was in the house, I immediately went to him, between seven and eight o'clock in the evening: he was then going to dinner, and appeared to me to be totally depressed in his mind, and quite incoherent in what he said. I was obliged to ask him the same question two or three times before he would make me any answer, and then he used to start up as if something had alarmed him. He told me that he had been extremely ill indeed, ever since the death of his father, who had made what he (the major) considered a handsome provision for him, and with which he was perfectly satisfied: at this time he spoke of his brother sir Francis with great affection. The major told me, that he was obliged to set out early *next morning* for London upon particular business. I remonstrated with him against undertaking such a long journey in his present state of health, and advised him to send for, and consult some medical gentlemen: I likewise told him, that I intended setting out myself in a few days for Buxton, and pressed him much to wait for me, and that we could travel so far together; but he would not listen to any thing I proposed, and set out next morning in a post-chaise, with an intention, as he told me, to dine at Gilmerton on his way to London.

Did you think that the major's situation on this occasion proceeded from intoxication?—By no means. He called for a bottle of wine, and drank only a few glasses of it. Indeed his situation made such an impression on my mind, and I was so much convinced of his deranged state, that when I went home, I told my sister (who was well acquainted with the major), that I should not be surprised if he committed some rash action against himself.

When did you again see the major?—I went to the major the day after he was brought into Edinburgh gaol, at his own request, and found him as calm, rational, and collected, as I ever remembered him, and perfectly sensible of the deplorable situation which he was then in. He said, he had been much deranged in his judgment for a considerable time before the fatal accident befel his brother, and that he did not know he had a pistol in his hand, till he heard the report. I called upon him two days afterwards, in company with Dr. James Home, and found him (as I thought), quite delirious and furious; and, when we left him, I had some conversation about him with Dr. Home, who was of opinion, that if the major's fever continued much longer, it would be advisable to put the strait-waistcoat upon him. When I went in upon this occasion, the major was walking rapidly about the room, which was very small, as if for a wager.

Lord Advocate.—You have told us, that, when you saw the panel at Dumbreck's hotel, he was alarmed, and that you had to ask the same question two or three times over before he gave an answer. Now, when he did return an answer, was it a rational and distinct one?—It was generally pretty much so, but expressed with a degree of melancholy and wildness which I never observed before.

Captain *Miller* examined by Mr. *Monypenny*.

Are you acquainted with the panel?—Yes.

How long have you known him?—About twenty-three years. I joined the 65th regiment as an ensign in the year 1771; and sir Archibald, then a lieutenant in the same regiment, joined us at Halifax, Nova Scotia, a year or two after; and he afterwards purchased a company in the regiment.

In what estimation was the panel held in that regiment?—During the whole time I knew him in it, he was universally beloved and respected by all the regiment, both officers and men.

her to take it from him as a keepsake, for he had not many hours to live; and at this time he was in a state of extreme agitation. Upon the Tuesday, when she went up to her chamber, she desired the servants to hold Gordon's room door fast, while she passed it, and slipped by, as she was afraid he might follow her, and perhaps make away with himself before her face. When he said he had taken poison, she did not at the time believe him, but she afterwards found, that he had swallowed a whole phial of laudanum, which he had taken from a cabinet in her room. That she would not, on any account, have retired to her room on the Tuesday night, if she had in the least suspected that sir Francis himself meant to seize him, for she knew the danger of it; and that sir Francis had told her, that the major was more quiet than he had been, and that they would not seize him that night.

Being interrogated by the lord advocate, the witness deponed, That the family never proposed to take any steps against him as an insane person prior to the Sunday. On Tuesday sir Francis told her, that Gordon had been out all night wandering in Beanston wood, and was raving mad.

Again interrogated by Mr. *Hume*, she deponed, That on the Tuesday evening, the major more than once attempted to break into her room, which was locked against him; and on these occasions, he complained that the witness refused to see him, when sir Francis saw him, and was so kind to him.

Mr. *Hume*.—Though I have reason to believe, that a more detailed and particular examination of Miss Kinloch would bring out many strong circumstances in the panel's favour, and though it was at first my intention to have proceeded in that manner, yet, in her distressing situation, and as I hope the case will not require it, I shall forbear to press it farther, and content myself with the few general questions which have been put.

John Walker, tenant in Beanston, examined by Mr. *Hume*.

Did you see the panel on Tuesday the 14th of April?—Yes.

You will endeavour to recollect what passed?—About a quarter after five in the morning, as I went out to yoke, I saw a gentleman walking near my house, which is about a mile from Gilmerton. He was dressed in black, and cried *halt*. This gentleman turned out to be the major.

Was there any body with him?—No.

What farther passed?—I shook hands with him. He seemed much fatigued. His clothes were disordered, and his appearance confused, and I invited him into the house,—took him up stairs to a room, and recommended a bowl of tea and a bed.—His stockings were very wet, and stuck to his feet and legs. I at first conjectured, that he had been up all night at Mr. M'Leod's, but when I hinted this, he said in a surly manner, *John, Don't ask me where I have been*. I rubbed his feet and legs until they came to some heat, and then he lay down upon the bed. He said in an angry tone, before I left him, that he would not be wakened. About five o'clock in the evening, however, being a good deal alarmed, I went up stairs to see if he was awake, and knocked at the door, which I found was barricaded within; *now*, says I to the major, *it is five o'clock; it is time that you were up*. He rose, and removed some chairs, with which he had barricaded the door, and then he opened the door a little, and looked out with a wild appearance, having two pistols in his hand. He asked me, after I went into him, if my wife had any laudanum? I said, perhaps she might have a little; but he answered, that he would take 350 drops, and that nothing less would do, for that he wanted an everlasting sleep, never to waken. Then he walked up and down the room in great agitation, sometimes pointing a pistol to his left side, and pressing the muzzle under his ribs towards the heart, and at other times pointing it to his ear or his forehead. I attempted to expostulate with him, but he said [here the witness used a loud and positive tone], "*Don't interfere, John.*" He then sat down, and desired me to draw a chair near him, after which he beat upon his breast, and exclaimed, "*Ah! John.*" He next presented a pistol to himself, repeating again, "*Don't interfere, John.*" I asked, if any of the family had offended him? He made no answer to this question, but said, "*Above all things, I would wish to see William Reid and Sandy Kinloch.*" He also said, he would take some tea. I went down stairs to order my wife to get the tea ready, and to send for William Reid, and I then said to her, "If a pistol goes off, be not surprised, for the major is deranged in his judgment, and I am afraid, he will make away with himself." I took up the tea. I poured some into a saucer, and held it to his lips, for he was not in a condition to carry it to his head himself. It was hot, and he said, "John, you have burnt me." He drank three saucers full of tea, but did not eat above an inch of bread. All the while I was helping him to the tea, and holding the saucer to his head, he held a pistol (which I saw, and heard him cock), to my side, within three inches of my belly, keeping his thumb upon the cock, and his finger at the trigger; I was much alarmed, but when I went down stairs, I did not let my wife and daughters know the danger I was in.

When did William Reid come, and what passed?—He came soon after. I informed him of the situation in which the major was, and desired him to tell sir Francis to send all the men in Gilmerton to seize him, for he would do mischief either to himself or somebody else. William Reid went and knocked at the room door. The major opened, and set it a jar a little, and looked out presenting

a pistol before him. William retired some steps down the stair at first; but afterwards, on the major pressing him, and assuring him that he would not do him any harm, he went into the room; but in a short while came down stairs, and went away. The major came down stairs soon after, and said, "John, you must give me a convoy." I went out with him, but we had not gone far when passing by the stack-yard, he said, "John, there was my bed among the stacks last night." I answered, "while there was a bed in my house, I am sure you had no occasion to lie there." He desired me to walk before him; but hearing him cock a pistol at my back, I was alarmed, and turned about. He said, "Are you afraid, John?" I replied, "No, I am sure I have no reason to be afraid of major Gordon." Soon after I heard him let the pistol down to the half-cock, and in a little while I heard him cock it again, and in this manner we walked on together; the major keeping behind me with the pistol. I now began to look about for an opportunity to escape, but finding I could not safely get away, I went on, until we came to a walk, which I knew the major was fond of. I there took leave of him, under some pretence, and returned home, very happy to have escaped as I did.

William Reid, gardener at Gilmerton, examined by Mr. *Hume*.

How long have you been gardener at Gilmerton?—For twenty-three years.

Had you occasion to see major Gordon on Monday the 13th of April last?—I saw him about one o'clock in the afternoon.

What passed then?—The major was walking from the house towards the garden, when I heard him call to me by name pretty sharply; on which I turned back and went up to him, and took off my hat, which he desired me to put on again. The major then, with a good deal of agitation, felt first his waistcoat pockets, then his breeches pockets, and then his waistcoat pockets again; and seemingly much disappointed at not finding what he wanted, said, with a melancholy tone, "I thought I had had something;" upon which I (thinking that he intended to give me something), begged to be excused, and said, that the major had often been kind to me and my family. The major then took several strides backwards and forwards, seemingly in great agitation; whereupon I said, that I was sorry to see him not well; but he made no answer, and still continued to stride backwards and forwards, and I left him.

Did you see the major on the afternoon of Tuesday the 14th of April?—Yes. About five or half-past five, a servant maid of Mr. Walker's came down with a message from her master, desiring me to come up to Beanston immediately, for major Gordon was there in a very deranged state.

Did you go, and what passed?—I met Mr. Walker at the door; he took me aside, and told me, that the major had come there between five and six in the morning, and that he had arms with him. Then Mrs. Walker came out, and desired us to go up stairs immediately. Mr. Walker rapped at the door, and told that I was there; on which, the major just opened the door a few inches, looking out with a suspicious countenance, and a pistol in his left hand, and again shut the door. He had a very raised, wild look, and his eyes had a very particular appearance. His hair was hanging loose, and his stockings off. I saw the pistol, and told Mr. Walker, that I would not go into the gentleman in that condition.

Did you afterwards go into the room where the major was, and what passed there?—After I got down a step or two of the stair, the major again opened a little bit of the door, and said, "Is that you, William?" I said it was. He then opened the door, and pressed me to come in. I refused, unless he would lay aside the pistol; on which he said, "Upon my honour, William, I'll do you no harm." I again begged him to lay aside the pistol, which he agreed to do; and I heard a sound, as if he was taking it from cock to half cock. When I went in, the major immediately clapped to the door, and put a chair upon the handle of it, so as to have some purchase. I still observed the pistol in his hand, and was very uneasy about it; when the major told me not to be afraid, and repeated that he would do me no harm. I said, it was his weapons that I feared and not himself; and that, if he would lay them aside, I would do any thing for him, or go any where with him. Upon which he asked me, if I was sure I did not mean him any harm? And although I assured him that I did not, yet he was not satisfied, till he had caused me to swear by the God of Heaven, that I would do him no hurt. He then threw two pistols, with considerable violence, into the bed. We then sat down; but the major immediately rose, and came forward, and laid hold of me with both hands by the breast, and stared broadly in my face. He said, "Where do you think I have been all night, William?" I answered, "I don't know, Sir." He said, "in Beanston planting; I had a light from heaven which appeared upon a bush, and I heard it crackle." I said, "like the crackling of thorns, Sir?" He answered, "Yes; but it was not consumed." The major then sat down again, and took out a piece of paper, and said, "William, you have a family; this will be of some use to them." I at first refused it, but, on the major's insisting, took it, and said I would keep it till I saw him again; on which the major said, "you will never see me again, William; and after some incoherent conversation, he said, "the prophecies of heaven must be fulfilled." I observed that heaven had never prophecied, or ordered, that a man should make away with himself. In the course of this part of the conversation,

the major took a small phial out of his waistcoat pocket, and said, "I have taken all this, and yet am still here." I got the bottle into my hand, and observed, that it still contained a drop or two of a deep coloured liquid; but the label was all torn off, except the border, which was red. I asked to keep the bottle, but this the major positively refused.

What farther passed?—He asked me to blood him, but I answered, that I had not my lancets; and was very much alarmed in case he should detect me. He then turned sick, and went towards the bed, and reached once or twice into the chamber-pot. I was afraid of his going towards the bed where the pistols were, and followed him, and, laying hold of the pistols, put them into my pocket; upon which the major darted his hands into my pocket, and took back the pistols, saying, he could bear any thing but that. I then asked permission to unload the pistols, which he refused. The major then sat down on the foot of the bed, when I desired him to remember, that the first and leading instinct of nature was self-preservation; and not to take away what he could not put there, or otherwise, he was taking away the prerogative of the Almighty; he said, he knew that. I afterwards suggested, that he had better go down to Gilmerton, and not give Mr. Walker's people trouble; upon which he started up, and said, "What, William, do you think I am a trouble?" I checked myself and said, "I did not mean that, Sir, but only that you would be better off at Gilmerton, where you would get a good room to yourself, and a servant to attend you." The major said, I believe you are right, William," and agreed to go; but in a moment, throwing himself back in his chair, said, "I cannot go." I said, if he was not well, I would go down and get the coach for him, or at any rate, I would get the coachman, and help him down. But the major still repeated, that he could not go. He then asked me, who were at Gilmerton, and I acquainted him, mentioning, among others, a Mr. Low from the Merse. Upon this I offered to go away: but the major said to me, in the most earnest manner, "You must not leave me to-night, William." I however pleaded a great deal of business, which led to some conversation about what was going on in the garden. About this time, the major suddenly asked, if Mr. Low was down stairs, and insisted that I had told him so, to which I answered, I meant Mr. Low was down at Gilmerton. With some difficulty I at length obtained leave to go away, upon promise of returning; and after getting out of the room, made the best of my way down stairs. On coming down, I met Mr. Walker, who took me into a private room, and I said that I was under the necessity of going home; and Mrs. Walker coming in, said, it was very right not to detain me, and that Mr. Somner *should be sent for.* I then got out of the *house; but upon* passing by the window of the room where the major was, I heard a violent rapping on the window, and, looking behind, observed the major; on which I ran home as fast as I could, and, after telling my wife a little of what passed, but not to be uneasy, I went forward to the house of Gilmerton.

Did you inform any person there as to the major's situation?—Yes. I called out Mr. M'Millan to the lobby; but before I had time to speak to him, sir Francis himself came out; and I told them what had passed, and added, that I would on no account see the major, as I was afraid I had offended him by not going back when he rapped for me.

Did any conversation pass respecting the bit of paper which you had received from the major at Beanston?—On the road from Beanston I looked at it, and found it to be an English bill or bank note for 30*l.* I accordingly showed it to sir Francis and Mr. M'Millan in the lobby, and gave it to sir Francis, who returned it to me; and I next day gave it to Mr. Hay Smith, messenger, to be delivered to Mr. Fraser.

Did you again see the major in the course of the Tuesday evening?—Yes, while I was in the lobby with sir Francis and Mr. M'Millan, I observed the major pretty nigh coming under the trees towards the house; upon which, after repeating that I would by no means meet with him, I went through the lobby towards the servants hall, where I found the brewer, and told him, for God's sake, to go to the lobby and make himself useful, if he was wanted.

Did you afterwards see the major that evening?—Yes, sometime after, sir Francis came and told me that the major was in his room, and requested, as he seemed to have a good opinion of me, that I might go up and endeavour to get the pistols from him, and persuade him to go to bed. Though I was under considerable apprehension, I consented to go at sir Francis's request; and accordingly went into the room, resolving at once to put myself upon the major's mercy. The major, however, received me kindly, and shook me by the hand, saying he was glad to see me.

Mr. *Hume.*—Mention all that passed?

Witness.—In a little, the major went to the head of the stair, and to the door of the room where the young Cunliffes were, under the care of my daughter, who had bolted the door. The major said he must be in to see the children, of whom I knew him to be very fond, on which I called to my daughter, that she need not be afraid, but might open the door, which she accordingly did, and the major went up to the bed, and clapped Master Cunliffe on the cheek; but, on my begging him not to wake the child, he came away, and said he would go to his bed. He accordingly returned to his room, and I went down stairs, and into the butler's parlour at the foot of the stone stair.

Did you then leave the house?—No. Being

suspicious of what might happen, I watched every foot I could hear in the stair, and soon heard the major come down; on which I followed him into the lobby, and sir Francis, who was there with some of the gentlemen, pointed to me not to let him out. I accordingly ran up, and got the major under one arm, while sir Francis took him by the other. The major, however, got a little way on the gravel before the door, when he just turned about, and looked up staring wildly at the front of the house. The major then returned to the house, and, when the gentlemen quitted him, passed through the lobby, and tried to open the back door; but, on finding it locked, he went up the wooden stair. I followed him, and saw him try to open several doors; but, on finding them locked, asked what was the meaning of all that? and the butler made some excuse, that they had been washing the rooms. The major then returned to his room, and some time after said, he would go to bed; on which I wished him good night, and he said, "Good night William, and a heavenly morning."

Did you immediately go down stairs?—I staid in a small room at the head of the stair, and soon heard the major leave his room, and stepped forward to meet him, and prevent him from going down; on which the major seemed displeased, and said, "What is the meaning, William, of all this interest you are taking about me to-night?" I answered, "I thought you had been in bed, Sir, and am afraid you will catch cold going about in that manner." He had many of his clothes off. He then told me to go home to my family, and not mind him; and after this he went back to his room, and I went down to the butler's parlour.

Were you not soon afterwards sent for by the major?—Yes, on my going up he desired me to shut the door, which I only pushed to, without snecking it. The major next desired me to lift in a table that was standing at the end of the room farthest from the door, which I was afraid to do, as he would thus be between me and the door; but, upon his again desiring me to lift in the table, I did so.—The major immediately laid down upon the table a book which he had in his hand, and which I believed to be the bible; and he repeated some lines of poetry, which I do not recollect. After some conversation, the major observed, that the door was not shut; upon which he seemed to be angry, saying, "How could you deceive me, William, by making me believe that the door was shut, when it was not?" I excused myself by saying, I thought it had been shut; upon which the major repeated the order, and I was obliged to shut it. When the major saw the door was shut, he went towards the east window, and one of the shutters being shut, he flung it open, and then put several questions to me. Among others, he asked me how many children I had? and I having answered that I had *five*, the major replied, "And your wife makes six." The major then drew his chair close to me, and looking me broad in the face, said, "William, have you told the people here what passed at Beanston." I being afraid, answered that I had not. The major said, "I did not expect such a thing of you, William;" on which, I again assured him, that I had not. Sometime after, he wished me good night, and I saw him no more.

Did you suppose the major to be the worse of liquor on the Tuesday evening?—No. When I first saw sir Francis and Mr. M'Millan in the lobby that evening, I told them that I neither perceived nor suspected the major being the worse of liquor.

Dr. *James Home*, physician in Edinburgh, examined by Mr. *Monypenny*.

Did major Gordon appear to be much affected by his father's death?—Major Gordon appeared much affected by his father's death. He had paid him the greatest attention during his last illness.

Do you recollect seeing the major in Edinburgh, about the beginning of March last; and what state did he appear to be in?—On the last day of March, or first day of April, I met Dr. Farquharson in the Exchange; amongst other conversation, he asked me, if I had seen my friend Gordon? I asked him what Gordon? He said, major Gordon Kinloch. I told him that I had not seen him. He then said, he had met with him to-day; and that, from his appearance and conversation, he thought him in a very queer state, and that he would not be at all surprised, if the major destroyed himself. I told Dr. Farquharson, that his appearance, at times, had long impressed me with such an idea. Next day (the first or second of April), hearing that major Gordon lodged at Robertson's, Black Bull, head of Leith-walk, I called upon him about four o'clock. He started when I first came into the room. I saw that he was in very low spirits.—I asked him to dine at Hunter's, Writers-court, along with his brother, Mr. Alexander Kinloch. He readily agreed. When in the street, he appeared to me to be very nervous or irritable; the passing of a carriage along the street, seemed to agitate him. At dinner, he tried to eat several things, but found that he could not. The waiter endeavoured to solicit his appetite, by presenting him with every thing that was nice in the house; but it was in vain, he did not eat an ounce of any thing. In particular, I recollect, the waiter proposed to devil something for him, when the major replied, "All the devils in hell won't appease my stomach." He could not drink port, and seemed to dislike every kind of drink; at last, I prevailed upon him to get a little brandy, which he drank, mixed with a large quantity of water. We parted at half-past seven o'clock, and, in that time, he drank one gill of brandy, or two at the utmost. His appearance that day

struck me very much, and I resolved upon taking the first opportunity of informing sir Francis of his situation.

Did you accordingly speak to sir Francis on the subject? I saw sir Francis Kinloch in the evening of the next day, after having seen major Gordon. I told him my opinion of his brother, which was, that I thought him in such a state of mind, that he would probably attempt to destroy himself, and advised him to look after him. Sir Francis said, that of late years his brother had become so peculiar in his temper, that he did not choose to meddle with him; that he had frequently observed such melancholy fits; that generally after these, he became very restless; and that he would then disappear from Gilmerton for a long time; that nobody knew where he went to; and that he returned perfectly well. About this time, when I was advising sir Francis Kinloch to leave the town and go to Gilmerton, as the best way of getting free of a cold which he then had, he told me, as a reason for his not going to his own house, that his brother the major was then in a very unsettled state, and that he wished him to go away from Gilmerton, which he always did when in that restless disposition, and that then he (sir Francis Kinloch) would leave the town.

Did sir Francis, before this period, ever mention to you his brother's occasional derangement, and assign any cause for it? Sir Francis has frequently mentioned to me his brother's disordered state of mind as a matter of great concern to himself, and to the whole family. He attributed it to a fever which he had when in the West Indies; as previous to his going to the West Indies, he was a very good-tempered man.

Did you again see the major in Edinburgh in April last; and in what state did you find him? On the 9th of April I saw major Gordon in his brother Mr. Alexander Kinloch's room, at Dumbreck's, about three o'clock, Mr. Waite, and Mr. James Home, writer to the signet, were in the room along with him. He appeared to be very melancholy and spoke little. Mr. Waite went away soon after I came in. In a little time major Gordon went away. I took that opportunity of going with him. I asked him to take a walk before dinner. My reason for this was, that I wished to have some conversation with him upon his health; but he declined taking a walk, as he said he had a head-ach, and was busy preparing for his journey to London, as he intended to set out next day. We parted at the door of Dumbreck's other hotel. He did not even ask me to come in with him to his lodgings.

Were you called to Gilmerton, after the accident which befel sir Francis? In what situation did you find him? and had you any *conversation* with him, particularly respecting *the accident*? On the 16th of April, in consequence of a letter from Mr. M'Millan at Gilmerton, mentioning, that it was sir Francis's wish that we should come out and see him, Dr. F. Home and I went out to Gilmerton, and got there by half past nine o'clock in the morning. We found him in such a situation that he could not live many hours. He gradually sunk, and died about half-past eleven o'clock that evening. He remained perfectly sensible until within an hour of his death. I seldom left him for above ten minutes at a time. He talked very little, and only once about the accident which had happened to him. It was about two or three o'clock, sir Francis asked me, "What have they done with my poor (or unhappy) brother." I answered, "He was carried to Haddington gaol last night." Sir Francis replied, "It would have been much better to have sent him to a private mad-house about Edinburgh." "But you know, said I," "that this unhappy accident must now become a matter of legal investigation, and he is committed to Haddington gaol by orders of the sheriff." Sir Francis then observed, "They had much better let it drop, for he was mad."——As sir Francis had begun the subject, I thought it a proper opportunity of ascertaining a circumstance about which I could get no information from any person in the family, namely, whether sir Francis had laid hold of major Gordon before the pistol was fired." I accordingly asked him, "Did you actually seize upon Gordon, before he fired the pistol?" Sir Francis answered "yes." "Good God, sir Francis "said I" how could you be so foolish as to attempt to lay hold of a man in a state of such furious insanity, and with arms about him?" Sir Francis replied, "There would have been no danger, if the servants had done their duty." This conversation made such an impression upon me, that I instantly retired to a corner of the room, took a card out of my pocket, and wrote it down.

Have you preserved that card? Yes, I have it in my pocket.

When did you first see major Gordon after the accident, and in what state did you find him? I saw major Gordon on Friday the 17th of April in Haddington gaol, in company with Mr. Goldie and Mr. George Somner. My reason for going to see him was, to afford him every assistance which I could, as I understood that, since he had left Gilmerton, no medical person had seen him. I found him confined in a strait jacket; but walking about the room. His countenance looked wild and furious: his eyes were red and inflamed: he was very much agitated; spoke of the horrid accident which had happened, in terms of the greatest regret: he complained of much confusion and noise in his head; he was correct enough when his attention was fixed to any subject; but it was impossible to do this for above a minute at a time, his ideas quickly wandering to other things, and he asked the same questions more than once. I did not

stay with him above a quarter of an hour. But his looks and conversation, at this time, appeared to me to be those of a person just recovering from a fit of mania.

Had you occasion to see the major in Edinburgh gaol, and to remark any thing particular in his appearance, or behaviour, while there? After major Gordon was brought to Edinburgh gaol, I saw him frequently, at least once a day. He was at times very melancholy. At other times, his appearance was like that of a maniac; particularly, on Sunday the 26th of April. I went to see him that forenoon, in company with major John Mackay; as, from the wild appearance of major Gordon the preceding day, major Mackay wished to have some person along with him. Immediately when I saw him, I perceived a difference in his appearance from that of the day before. His countenance was wild, his eyes staring, and like those of a mad person: and his walk was hurried. He, however, behaved very composedly to us for a few minutes: but, when major Mackay wished him to repeat before me, some circumstances of a private nature, which he had mentioned the day before, major Gordon could not recollect that he had told major Mackay any such things as he alleged; and, when major Mackay repeated the conversation he alluded to, he said that the major had no right to enquire into his private affairs, and that the major betrayed a confidential discourse. He became much agitated; he looked very wild; and he put himself into such violent threatening postures, that both major Mackay and I were very much alarmed. His appearance and behaviour, seemed to me to be the more singular, as at that time he was confined to a very low diet. Upon this occasion, I remarked to major Mackay, that, if the same state continued, it would be necessary to put major Gordon in a strait jacket.—On the third of May I went to England; and therefore did not see him for five weeks.

Had you ever any conversation with the late sir David Kinloch respecting major Gordon, from which you could understand that sir David considered the major as occasionally deranged? I have had frequent conversations with the late sir David Kinloch, respecting major Gordon, and have sometimes heard sir David mention several oddities in the major's behaviour; and sir David has often said to me, "Poor, unhappy man! he is much deranged."

Mr. *Hope*.—My lord, I propose now to call Dr. Farquharson; and I have the pleasure to add that he will be the last witness. We have, indeed, many more in waiting; but, on consulting with my brethren, I think it unnecessary to give the Jury farther trouble, both because it is impossible to add strength to the evidence already brought, and, because, judging by myself, the Court and Jury must be very much exhausted. With this gentleman, therefore, *we shall close our proof.*

Dr. *William Farquharson*, member of the Royal College of Surgeons in Edinburgh, examined by Mr. *Rae*.

How long have you been acquainted with the panel major Gordon Kinloch?—Six years.

On what occasion did you become acquainted?—I was called to him in September 1789, in Mrs. Warden's, Grass-market, where I found him sitting in a small bed-room, with one of his wrists wrapt up in a handkerchief, which was very bloody. He was in such a state of agitation, and mental derangement, that he could hardly give any account of his wound; though he hinted that he had hurt himself by pushing his hand through the window of a carriage. This appeared impossible from the nature of the wound; and the gentleman, who had called me to see him, told me, that the postillion suspected the major had wounded himself while in the carriage; and in this opinion we were confirmed, by searching his pockets after he was put to bed, and finding a small knife, the blade of which was bloody; and still more, by his evading any inquiry on the subject, though he never denied it.

Do you think, that his derangement was occasioned by the wound?—No. I found him so much agitated,—and his looks were so furious, that I concluded his disorder proceeded from actual derangement, more especially, as the coolness of his skin, and the calmness of his pulse, did not indicate a sufficient degree of fever, to account for the symptoms.

How long did he remain in Warden's?—Several days. I got him removed to a house at the end of the Cow-gate, occupied by Mrs. Cameron, who kept boarders.

How long did you attend him?—About two months.

Was he deranged all that time?—For the first month, he was very unsettled, being at times more rational, and at other times quite sulky and deranged, though in a gradual state of convalescence; and it was about two months before I thought it safe for him to leave town.

Did you ever see in the panel any other symptoms of derangement?—Yes. About the first of April last, I met the major coming along the North Bridge very fast, but sometimes stopping, and looking down. He was passing me; I stopped him, and had some conversation, in which he appeared very incoherent. After parting, he turned, and called on me. On my coming back he looked several minutes over the parapet of the North Bridge, towards the castle, and, appearing still more agitated than before, suddenly exclaimed, "Good God! will that man." (alluding to a gentleman whom he named), "do nothing for himself?" On my expressing ignorance of his meaning, he said, "Will he not go out of the world like a gentleman? I have advised him to it, as the only thing left

for him to do; but I am afraid he has not spirit." From this, and the whole of his appearance and conversation, I was afraid that the major would do some mischief to himself. This fear I expressed to Dr. James Home; and I afterwards understood, that he mentioned it to some of the major's family.

When did you see the major next?—In Haddington gaol.

What state was he in?—He was in irons, and did not seem to understand his situation properly; for, instead of touching upon the accident, which occasioned his being there, he began immediately to complain of the irons hurting his feet, which were gouty.

Have you seen him since he came last to Edinburgh?—I have visited him almost every day since he was in Edinburgh gaol.

How have you found him?—I have found him frequently much agitated. I never could get him to rest upon one subject for many minutes at a time, excepting the melancholy accident; but even from this he would sometimes proceed abruptly to the most trifling, and totally unconnected subject; and, on one occasion, in the course of a conversation about the accident, happening to observe a uniform button on my coat, he seized it like a child, and asked if he could not have a set like it. On the Saturday after his being brought to Edinburgh, I found him very sulky, going about the room in great wrath, and complaining of major Mackay's having used him ill, in desiring him to apply for counsel and an agent to make his defence. He said this was a thing which nobody had any thing to do with, and he would make no defence; and it appeared very clearly to me, that at this time he did not know what was meant by a defence. Sometime afterwards, on being informed that Mr. Hope and Mr. Bremner had been employed, he asked upon what authority, was very sulky, and said he did not understand how any person should be employed for him without his own consent.

Did you ever hear the panel regret, that he was not prevented from committing the unlucky deed?—He has frequently, in my hearing, expressed his regret and astonishment, that he was not prevented.

Were you requested to use your influence with the panel, to prevail with him, to give such information as might aid his defence?—I was, but could not make him understand the necessity of giving any information, and accordingly, none was obtained from him.

Did he usually make rational answers to any questions you put to him?—I have often found great difficulty in getting any answers at all; and, when I did, they were generally from the purpose.

Dr. *Farquharson* cross-examined by the *Lord Advocate.*

When you attended the panel at Warden's, *had you occasion to know* that he had swallowed a large quantity of laudanum?—On searching his pockets, a large phial of laudanum was found, not quite full; but whether he had swallowed the whole of what the phial had contained, I cannot say; though, from the smell, I believed that he had taken some of it; perhaps a good deal more than an ordinary dose. I could, however, obtain no information on the subject from himself; either during the period of his convalescence, or since.

Did you ever caution him against the use of laudanum?—No.

Did you find him tractable?—In general I did, though sometimes I was obliged to use strong expressions; but he did every thing he was desired, except to take the quantity of bark and wine, which I thought necessary for healing his arm.

Had you any conversation about naming his counsel?—While I was with the panel in Haddington gaol, Mr. Fraser's clerk came in with a line, which, in consequence of previous information from Mr. Fraser, I understood to be a recommendation to appoint counsel and an agent. On this, I left him and the clerk together; but, in a short time, I was again sent for by the major, who showed me Mr. Fraser's letter, and asked my opinion of it. I approved of Mr. Fraser's suggestion; and, on the major's hesitating as to whom he should name, from his not being particularly acquainted with any counsel, I proposed to get an almanack and examine the list of the faculty. We accordingly procured an almanack; and in the course of reading over the list, the major named the dean of faculty [hon. Henry Erskine], and Mr. George Fergusson. I afterwards understood, that he wrote to both these gentlemen, though I am certain, that he recollects nothing about his having applied to Mr. Fergusson, and recollects the application to the dean only in consequence of his having received an answer to it. He asked me what was the meaning of an agent. This I endeavoured to explain, but found it impossible to make him understand the necessity of employing one.

The *Lord Advocate** [Robert Dundas, afterwards Lord Chief Baron].—Gentlemen of the Jury; The duty which you are summoned to discharge as a special jury, is of the most important nature. I should be stating what is not true and what it would be very improper for me, not to mention to you that an alteration has taken place in the close of the evidence, which considerably changes the appearance it had at its commencement.

The present case is not one which in its nature is attended with any considerable degree of difficulty; or where the rules of determination are not plain and obvious: but I should

* His lordship commenced his speech at about half past four o'clock on Tuesday morning. Orig. Edit.

be departing from that which I have always done, and which I shall always continue to do, in every criminal trial, were I to conceal from you what I really feel, that the evidence in favour of the unhappy person at the bar, has ultimately come out stronger than I was aware of, or expected when I came into this court.

The counsel who early in this trial opened the defence with that elegance and propriety for which he is so remarkably distinguished, was pleased to state that this was "a most necessary prosecution." He stated no more than is true, and what you must all feel to be so: for ill indeed would the criminal justice of this country be attended to, and much would those, whose business it is to prosecute offences, be wanting in their duty, if the life of a fellow-citizen were to be taken without inquiry, and his blood permitted to flow, without a jury determining on the guilt or innocence of the person accused of having done so.

My brother, Mr. Hope, in the course of a debate which arose betwixt us, in relation to the admissibility of certain notes proposed to be given in evidence on the part of Miss Kinloch, was pleased to state, that, if he stood on the opposite side of the bar, he would not, as I did, have opposed the reading of the notes; and adding, that he would rather have abandoned the prosecution. Gentlemen of the jury, I am of a different opinion. I should have violated every rule and principle of justice, if I had dared to discriminate between the case of this gentleman, and that of the poorest criminal who ever stood at the bar, or have suffered my feelings for his wretched and unhappy sister, to lead me from the strict line of my duty. Though the panel has not, through my persisting in the objection, been deprived of the benefit of his sister's evidence, whatever force it may have had on your minds, and however much I might have regretted had her distress incapacitated her from giving her testimony in court, yet, far from abandoning the prosecution on that account, I would without hesitation have called upon you to have given a verdict according to your consciences from the evidence before you; nor would I, though I might have lamented the circumstance which occasioned her absence, have consented to an exception in her favour over other witnesses, or have thought that, by resisting the demand made for her of referring to notes, the smallest degree of blame could justly be imputed to me.

Having stated these preliminary observations, I come next to the matter of fact. The counsel for the panel is pleased to say, that the killing is admitted. I could not accept the admission: it is proved. And I should offer an insult to your understandings, were I to utter a single word on the complete sufficiency of that part of the evidence.

To the evidence then we come, of what truly is *the cause before you*: is the defence of insanity* proved to that extent, and degree, which law and reason require, in exculpation of the crime of murder.

The law of Scotland is, and must in this respect be the same with the law of England, because both are founded in the plainest and most obvious principles of justice. It is such as entitles the person who kills his fellow-creature to the full benefit of the defence of insanity, if he can prove it on a fair trial; but I do say, under correction of the Court, that it is only he who is absolutely insane, who is perfectly mad or furious, that is free from trial, and consequently free from punishment.

He who is subject to temporary fits of complete and perfect madness, cannot in like manner be punished for the actions he commits in the midst of his delirium; but, for those committed in his lucid intervals, he is, with exceptions unnecessary for you to attend to at present, as competent to trial and punishment, as any other man.

But there is a third description of persons, and to this I request your particular attention, for it is the description under which the present case falls; I mean that degree of derangement which has been attributed to the panel; that degree of melancholy and depression of spirits, which, though it may border on insanity, is nevertheless accompanied with a sufficient share of judgment to discern good from evil, and moral right from wrong; which never has, and never can be sustained as a bar to trial, or a defence against punishment for a crime so atrocious as murder; but subjects such persons to conviction and punishment, as much as if no symptoms of derangement had ever appeared, or as if complete evidence had been laid before you, that he was in a lucid interval, and in the full possession of his senses when the action was committed.

It is unnecessary for me, especially at this hour of the morning, to multiply authorities, in support of what must appear on the very statement of it, consistent with law and with reason. I could refer to several; but shall confine myself to two short quotations from two eminent authors, one of this, and the other of our sister kingdom; I mean sir George M'Kenzie in this country, and lord chief justice Hale in England; not only because they are known to be writers of the highest authority in each country, but because they state the law and the reasons of it with so much perspicuity, that no man can be at a loss to understand it; and he has only to inquire how far the evidence is or is not suffi-

* On this subject, in addition to the authorities cited in a note to the case of Frith, *antè*, Vol. 22, p. 311, see the observations of Mr. Hume (who in this case was one of the counsel for the panel)—Commentaries on the Law of Scotland respecting the Description and Punishment of Crimes, Vol. 1, pp. 22, et seq.

cient to establish the legal defence in the particular case under consideration. Sir George M'Kenzie observes, "Such as are furious are not in the construction of law capable to commit a crime, Stat. 2. Rob. 2, for the law compares them to infants, or to dead men, *L. Si quis, F. de acquirend. hered.* to such as are absent, *L. sed si F. de injuriis*, and makes them to be no more guilty, because of the crime they commit, than a stone from a house, or a beast, is to be reputed guilty, and punishable for the wrong they do. *Quam si puuperiem pecus dederit, aut tegula ceciderit, L. 5. F. ad L. Aquil.* And the law commiserates so far their condition, that it expostulates with such as would pursue them for a crime, *et non exigas penas ab eo, quem fati infelicitas excusat, quiq; furore ipso satis punitur, L. infans F. ad L. Corn. de sicar.* They are excused by their own misfortune, and abundantly punished by their own fury; but since the law protects furious persons from punishment, because they want all judgment, *L. 14. F. de officio præsid. it follows naturally, that this privilege should be only extended to such as are absolutely furious.*"

He then proceeds in the subsequent section, which I am about to read, to consider the case of persons who are only mad to a certain degree; and states, as a question of doubt, the old doctrine argued by some writers on the civil law, but long ago justly exploded, that though they are not free from punishment altogether, yet that, by the rule of proportion, their punishment ought to be mitigated. "2. It may be argued, that since the law grants a total impunity to such as are *absolutely furious*, that therefore it should, by the rule of proportion, lessen and moderate the punishments of such, as though they are not absolutely mad, yet are hypochondriac and melancholy to such a degree that it clouds their reason, *qui sensum aliquem habent, sed diminutum*, which lawyers call *insania*, and the Greek μωρία. 3. That such as show any act of resentment or revenge in the wrong they do, may be punished with some degree of severity, since they show some degree of judgment. But yet the *Parliament of Paris* is justly condemned by all lawyers, for having caused execute a madman who had killed one that had struck him two days before; but, since he did show memory and revenge in that act, he might have been punished justly to some moderate degree."

From the sytle of this passage, and manner of expression, you, gentlemen, will readily observe, that the case which sir George M'Kenzie here states as dubious, not whether it is exempt from punishment altogether, but whether the ordinary or a less severe one is to be inflicted, is the very case of the panel at the bar; and since for that question there is now no room, as the prisoner either is liable to a *capital*, or to no punishment at all; you are *bound*, according to the evidence before you, *either to find him* not guilty, if you believe that he was, at the moment he took his brother's life, absolutely furious or insane; or, if you think he knew the nature of his crime, to return a verdict of guilty against him.

The only other author I shall refer to is chief justice Hale. He says, P. C. Vol. 1. ch. 4. § 11. "*Dementia accidentalis, vel adventitia*, which proceeds from several causes; sometimes from the distempers of the humours of the body, as deep melancholy, or adust choler; sometimes from the violence of a disease, as a fever or palsy; sometimes from a concussion or hurt of the brain, or its membranes or organs; and as it comes from several causes, so it is of several kinds or degrees; which, as to the purpose in hand, may be thus distributed: 1st, There is a partial insanity of mind; and, 2nd, A total insanity.

"The former is either in respect to things, *quoad hoc vel illud insanire;* some persons that have a competent use of reason, in respect of some subjects, are yet under a particular *dementia* in respect of some particular discourses, subjects, or applications; or else it is partial in respect of degrees; and this is the condition of very many, especially melancholy persons, who, for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason; and this partial insanity seems not to excuse them in the committing of any offence, for its matter capital; for, doubtless, most persons that are felons of themselves, and others, are under a degree of partial insanity when they commit these offences. It is very difficult to define the indivisible line that divides perfect and partial insanity; but it must rest upon circumstances duly to be weighed and considered, both by the judge and jury, lest, on the one side, there be a kind of inhumanity towards the defects of human nature; or, or the other side, too great an indulgence given to great crimes. The best measure that I can think of is this: such a person as, labouring under melancholy distempers, hath yet, ordinarily, as great understanding, as ordinarily a child of fourteen years hath, is such a person as may be guilty of treason or felony."

In another passage, this author proceeds to state: "Now, touching the trial of this incapacity, and who shall be adjudged in such a degree thereof, to excuse from the guilt of capital offences; this is a matter of great difficulty, partly from the easiness of counterfeiting this disability, when it is to excuse a nocent, and partly from the variety of the degrees of this infirmity, whereof some are sufficient, and some are insufficient, to excuse persons in capital offences.

"Yet the law of England hath afforded the best method of trial, that is possible, of this, and all other matters of fact, namely, by a jury of twelve men, all concurring in the same judgment, by the testimony of witnesses, *viva voce*, in the presence of the judge and jury, and by the inspection and direction of the judge."

This then is the material, and indeed the only question you have to try, whether the person at the bar is of that description, and whether the evidence adduced is sufficient to warrant the conclusion, that he was deranged to such a degree, as to excuse him from the capital punishment due to a heinous murder. It is my duty to submit to you such observations, as appear necessary for aiding you in this inquiry: and I must begin by presuming to point out to you those parts of the evidence which do not bear upon the defence, and to which, in my opinion, you ought not to attend;—I mean the evidence of the gentlemen near me, who, much to their honour, seem, at much personal inconvenience, to have come from a considerable distance, from the service of their king and country, to discharge the best and most benevolent of all duties, that of giving their testimony in favour of their unfortunate fellow-soldier and friend. Permit me, however, to tell you, gentlemen, that you must dismiss their evidence totally out of the question. Colonel Twentyman and captain Miller have both proved, that, before 1779, the panel was beloved by all, possessed many excellent qualities, was polite, humane, and generous; but that a fever in the West-Indies totally changed his disposition, and deranged his understanding. The derangement I admit; but it is the degree of derangement that you are to consider; and unless you are prepared to go this length, and to say that from the year 1779 downwards, to the night of this melancholy event, he was occasionally, and at the time of its happening, so completely deranged as to fall under the description of perfect and total insanity, you cannot possibly exculpate him. But the evidence of his family, and those most intimate in it, completely contradicts such a supposition; for, however whimsically and absurdly he may from time to time have conducted himself, we have not heard of any thing being done by them, or even proposed to be done regarding him, which can induce you to believe that they really thought him insane. He left his father's house from time to time, without previous notice, or mentioning whither he was going: you find him returning again as unexpectedly, and, in a variety of other particulars, acting with a great degree of absurdity, but which neither did in fact, nor was considered by any of his family, as amounting to madness. He made two visits to colonel Twentyman at Lincoln, where he behaved absurdly enough, it is true; but he returned to his own family, and to the management of his own affairs, without any steps being even proposed to be taken, or being judged necessary for the purpose of confining him. The story told by major Mackay, of his having, some years ago, at North Berwick, taken a sudden and idle whim into his head, that the major had made him the butt of the company, is just of the same description, and seems to have passed just as much *unnoticed* by all the family. But it will be recollected, and it seems material, that, on a question explicitly put to Mr. M'Millan, whether the panel was able to distinguish good from evil, he answered in the affirmative; an opinion confirmed by the fact, that though the panel had been liable to fits of temporary insanity, still that was but partial; as it cannot be supposed that his family, when they saw the fit approaching, would not otherwise have taken measures to secure him, and prevent him from injuring himself or others; which, with the exception of the circumstance deponed to by Dr. Farquharson, on which I shall have occasion to remark hereafter, no person concerned with him seems ever to have thought necessary.

Miss Kinloch and Mr. Fraser have also told us of other circumstances in the panel's conduct, but all of them of a similar nature; of her father, on a journey to Wooler, having observed that Gordon's malady was returning; and that, on another occasion, he had taken into his head a notion that he had signed a renunciation of his right of inheritance to the estate of Gilmerton.

But, upon reviewing all these circumstances, there is one thing which always occurs, and which must strike you forcibly, that you find him living in his father's house, without any steps being taken that make it appear his family looked upon him to be insane. You find him, during his father's life, frequently leaving Gilmerton in a hurry, without telling where he was going; but who is there that will venture to assert this sort of capricious conduct to be in any means a proof of insanity? It is needless for me to go over this part of the evidence, so I shall not repeat one word of it; but I shall only say, that, though it may prove a sort of derangement, it does not amount to that degree of it, which, on the authority of lord Hale, and in sound law and reason, can alone render him unaccountable for his actions.

As to his jumping out of the chaise, and leaving the company on the road to Gilmerton, it is your business to consider how far that is a mark of derangement. You will observe, that he returned a rational answer to the postillion who was sent after him, viz. "He was going to Haddington, and he would be found there."

You find him, from the evidence of Dr. Farquharson, attempting, some years ago, his own life; but I am much afraid, that you will not look upon an attempt to commit suicide, as a proof of insanity. We have heard of this being done by those who never were either suspected or accused of insanity, and who, to the last fatal act, were cool, collected, and in the full exercise of their faculties. It is impossible for me, however, not to admit, that the evidence of Dr. Farquharson does go directly to establish, at this period, a fit of strong, decided insanity; and it is for you to consider and determine what weight that circumstance can have on the present trial, and

whether that solitary instance is sufficient, in your opinion, to fix upon him the character of madness, in the face of, and when contrasted with, all the other evidence, to which I have already alluded, and which still remains to be considered.

We had, if I recollect right, one or two other instances of eccentric behaviour in the panel, as far back as the year 1786. Still however, they were but instances of extreme absurdity; and still, in my humble opinion, does the complete neglect paid by his family to these appearances, preclude any supposition of insanity.

There was a story that Fraser told you about a bill, which the panel had remitted him in payment of a debt, on which, after satisfying the debt, a balance remained due, and had been paid to the panel; but which, at the distance of three or four years, the panel conceived had not been returned to him; but when the matter was explained, he instantly acknowledged his mistake, and seemed hurt and vexed at the explanation he had demanded. This at the utmost infers only a defect of memory. But, could it admit of being carried farther, the answer still is the same, that the degree of derangement was not such as to induce his friends even to propose the putting him in confinement.

But the circumstance which I consider of the most importance, and of such moment, that I must state it to you as of the utmost consequence, is, that immediately after he had committed the action, he seems to have had perfect knowledge of what he had done, and was perfectly aware of the consequences of it. The servants have all concurred in deponing that, when thrown on the carpet, he said he would give them 100*l.* to let him go; and soon afterwards exclaimed that he had done an awful thing. When visited next morning by Mr. Goldie, he enters with him into a discussion of what happened; he endeavours to vindicate himself upon the plea of self defence, by telling Mr. Goldie that there was a deliberate plan laid to destroy him.

From the testimony of Fraser, it appears, that he was all along capable of transacting business. You have it both from Smith and Dodds, the first of whom carried him on Wednesday evening to Haddington gaol, and a few days thereafter accompanied him to Edinburgh, and the last of whom saw him frequently in Haddington, and carried messages to and from Mr. Fraser, that he was always collected and rational: at no time do I find him awakening as it were from a dream, to the recollection of what had passed during his delirium and of which he was ignorant while totally deprived of reason. In the testimonies of Dr. Monro, and Mr. Bell, you have complete evidence that, during their attendance, they saw no symptoms of madness about him. In short, if I can discover no *moment of time* at which total insanity commenced, I can see no period when returning reason resumes her reign. That he has method in his derangement, and that he does not converse like a madman, is evident; he has complete recollection as to circumstances that happen some time before; and though he may reason absurdly, still he does reason, and understands the consequences of what he has done, and the cause of his confinement.

Gentlemen, the question you are to determine comes to this short and simple issue; if it appears that the panel was in a situation of knowing good from evil, you cannot acquit him. If you do not think that he was perfectly and truly ignorant of what he was doing; if you shall believe that he knew murder to be a crime, you must be of opinion that he is answerable for his actions, and consequently liable to punishment.

It remains for me only to offer a few remarks on the only two instances which appear to me to be proved of any thing resembling that insanity, which can afford a relevant defence against the crime of murder; the one deponed to by Dr. Farquharson, the other by Walker and Reid. That they are entitled to weight, and to your serious consideration, it would be as unjust as unavailing for me to deny. To your own consideration I chiefly leave them: but calling upon you particularly to consider and to judge, whether they proceeded from drunkenness, or any other cause imputable to the panel himself, or were really the consequences of unavoidable insanity.

That this is an essential and material distinction into which you must accurately inquire, cannot need the aid of argument or authority. Lord Hale tells us, "The third sort of *dementia*, is that which is *dementia affectata*, namely, drunkenness. This vice doth deprive men of the use of reason, and puts many men into a perfect but temporary phrenzy: and therefore, according to some civilians, such a person committing homicide, shall not be punished simply for the crime f homicide, but shall suffer for his drunkenness, answerable to the nature of the crime occasioned thereby; so that yet the formal cause of his punishment is rather the drunkenness, than the crime committed in it; but, by the laws of England, such a person shall have no privilege by this voluntary contracted madness, but shall have the same judgment as if he were in his right senses."

He then states two exceptions; the first, "If a person by the unskilfulness of his physician, or by the contrivance of his enemies, eat or drink such a thing as causeth such a temporary or permanent phrenzy, as *aconitum* or *nux vomica*, this puts him into the same condition, in reference to crimes, as any other phrenzy, and equally excuseth him." And the second is, where an habitual a[illegible] phrenzy is occasioned by the fault of [illegible] sane person, in which also the [illegible] sanity is good. But from both, that a temporary and partial in[illegible]

sioned by the act and deed of the party accused, is not of that nature as to free him from trial and punishment, for offences committed during the subsistence of such criminal delirium.

It is your business, gentlemen of the jury, to inquire and decide, whether these two instances are not to be ascribed to the panel himself, and to the influence of laudanum. It is clear from Dr. Farquharson's evidence, that the first of the two was imputable to a dose of laudanum voluntarily taken by the panel: and the evidence of Miss Kinloch, joined to the testimony of Reid, who saw him on the Tuesday evening, with a phial, in which a small quantity of high coloured liquid remained, afford convincing evidence that his deranged state must have in a great measure perhaps, wholly, been owing to the same cause. Had he, on this last occasion, for the first time experienced the effects of that dose, even then, would the authority of lord Hale have applied to his case, and disabled him from pleading the delirium as an excuse. But having once, on a former occasion, suffered so severely, he must have known, and is to be presumed to have known, when he swallowed the second, that similar consequences must inevitably follow; and it is for you to consider, whether that circumstance does not oblige you to hold him still more directly accountable.

To myself, gentlemen, it appears to be proved, that the panel was, from the West India fever downward, often in a state of derangement, but that attended with a sufficient degree of reason; and that from the year 1779, till he appears early on the Tuesday morning at the house of Beanston, or, at farthest till he appears on the preceding Sunday at Mr. Goldie's manse, there is not the smallest vestige of proof, to satisfy you that he was in that state of lunacy, which alone can entitle you to sustain the defence. The evidence of Miss Kinloch, of Walker, and of Reid, as to his conduct and demeanor for the two days previous to the fatal act, is of a nature different from what appears at an earlier period: and upon its weight and sufficiency you will, giving due attention to the observations I have made, determine with impartiality, and according to the dictates of your own conscience.

Gentlemen of the jury, I have thus gone over a case which I stated in the outset as attended with some degree of difficulty, and on what that difficulty is founded I have endeavoured to explain. It is but fair I should acknowledge, that there are many circumstances attending his conduct during the 48 hours prior to the event, which are favourable to the defence; and the evidence of Dr. Home, of what passed betwixt him and the late sir Francis, is of the same nature. It is for you, gentlemen, to consider what weight these circumstances ought to have, when contrasted with those which I have already suggested for your consideration. If he had been really insane, it certainly was the duty of his friends to have taken long ago the necessary and proper steps for having him secured; even still, they have not advised him to plead that in defence. He admits that he is sane and well at this moment, and that he is competent to stand trial before you. The rapidity of his recovery from the alleged state of insanity, and the very short duration of it, if it existed at all, or to a sufficient degree to exculpate, are now the subject of your impartial and serious deliberation.

To those false, idle, and indecent reports, which I understand have been circulated out of doors, respecting this trial, you, gentlemen, will pay as little attention as I do. You know your duty too well, and what justice requires of you, to be biassed on either side in a question of this nature, or to be influenced by any thing but the evidence laid before you. We were told, to the astonishment of us all, in the commencement of this trial, that even the pulpit itself had been made the channel of misrepresentation. Be the man who he may, ye cannot but join in feeling indignation at his folly and indecency, who dared on the eve of a solemn trial to anticipate the verdict of an impartial jury, or touch upon a subject which I thought every man had felt to be sacred from discussion. Gentlemen, if any of you have heard these reports, or listened to such a preacher, I am sensible you will disregard them: you will look only to the evidence before you, and decide upon it like honest men.

That the evidence has come out more favourably for the defence, than I had reason to expect a feeling of justice has already compelled me to acknowledge. Where the force of these is weakened, and what are the topics to which you, on the part of the public, ought to attend, I have endeavoured to point out: should the result be, to balance the whole nearly equally on your minds, God forbid, that, where the life of a fellow-creature is concerned, I should attempt to persuade you, were the attempt likely to succeed, that the scale should not be inclined to the side of mercy.

Mr. *Hope* [afterwards Lord President of the Court of Session].—My Lord Justice Clerk, and Gentlemen of the Jury; I feel myself greatly agitated. I have waited with extreme impatience for the present moment; and, now that it is come, I wish I may have either strength or recollection to give utterance to the multitude of ideas which crowd upon me; the subject really overcomes me, and I hardly know how or where to begin.

You have heard a very ingenious speech from the learned lord, and I must in justice add, a very candid one; a speech, in point of candor, just what I expected, and every way becoming his honourable mind: indeed, his candor seemed to be at variance with his

duty and abilities, and evidently betrayed him into inconsistencies, which even his eloquence could not disguise. But, before proceeding to reply to him, or to give you my own observations on this case, there is one preliminary view of it which I cannot refrain from giving you, because it has made the strongest impression on myself: it is indeed affecting beyond measure, and teaches how vain and fleeting are even those enjoyments here, which we are the best entitled to call our own.

Gentlemen, I desire to call to your remembrance the honourable testimony which you have heard of the prisoner's character prior to 1780, and to contrast it with the subsequent melancholy change. See him entering early into the army the second son of an honourable house, himself possessed of an independent fortune, embracing the profession of a soldier, for glory, not for profit, and devoting himself to the service of his country, only for his country's sake: see him entering into that profession, of all respectable professions the most respectable, himself the most respected officer in the line. You heard the character which was given of him by those who knew him well, who have come from the extremities of the island, to which the summons of this Court could not have reached them voluntarily, to support a fellow soldier in distress, and who, by doing justice to his character for friendship, generosity, benevolence, humanity, and every social and amiable accomplishment, have, in the most decided manner, proved their own title to share in the praises they bestowed. "Beloved and esteemed in his own regiment by both officers and men, respected by the whole line, and in every point one of the most amiable characters they ever knew," were the words of his companions: noble and generous friends! I know not whether to admire most, yourselves who give, or your now unhappy friend who deserves such testimony.

Such was major Gordon, when in 1780 he sailed to the West Indies, to that malignant and accursed climate, which has been the grave of millions, and which seems to have been ceded to Europeans by the wrath of heaven, to be a scourge and punishment for the horrid barbarities they have acted there. Such was he, when he sailed, commanding a regiment of his brave countrymen, all flourishing like himself in youth, and health, and spirits. View now the dismal melancholy change: by heavens! I cannot bear it; O God, thy ways are just, but sure they are inscrutable! If virtue, honour, and humanity, ever deserved thy favour, or entitled their possessors to success and prosperity in this life, as well as happiness hereafter, surely the prisoner would have been the object of thy care: but let me not blaspheme, thy purposes must be served, thy will be done.

Turn then, gentlemen, to the sad reverse. *The prisoner now* stretched on the bed of sickness and of phrensy; nursed and attended by those friends who have here borne testimony in his favour, and whose friendship, the danger of contagion could not deter from administering to his relief. View him, by their care, restored again to life, only to curse the care which had snatched him from the grave. View him now returned to Britain, alas! how changed; changed, not in reason only, but in his very nature; the whole man absolutely lost; and the amiable and generous Gordon Kinloch, become the sullen, morose, jealous, and troublesome being, which he has since occasionally existed. See him often a plague and affront to that family of which he was once the flower; see him shunned and avoided as a pest, by those very persons who once courted his company, and thought themselves honoured by his friendship; see him wandering from his father's house, coming he knows not whence, going he knows not where, but in all places an object of terror and aversion. View at last the concluding scene of this sad tragedy,—his brother fallen by his hand,—himself now answering for his murder; think on this sad change, and let it make you serious; think on the prisoner's fate, then think of the blessings which yourselves enjoy, and let it make you grateful.

But, gentlemen, mistake me not; think not that I have thus appealed to your feelings, because I have need of your compassion. I desire not mercy, unless you can give it me with justice; I do not think I have occasion to throw the picture I have drawn into the scale; though surely, if the scales were even, it would indeed turn the balance. I have dwelt on this subject, not so much for the prisoner's sake, as for our own. It has taught me a lesson of humility, which I shall not easily forget, and which none of you perhaps may be the worse to learn. It may teach us all to acknowledge, what all already know, that even our characters are not our own, and that our very virtues, as well as the faculties and powers of the body and mind, are subject to disease, to alteration and decay. It may teach us, too, how uncertain and worthless a reward is often human praise. At the other end of the island, parliament is now employed in erecting a monument to one great man, who, perhaps fortunately for himself, died in that infernal climate; while you are desired to doom to death, and infamy one not less amiable, who unhappily survived it.

But I will not longer distress your feelings, to which I have no occasion to appeal, neither will I waste your time in guarding you against those prejudices, which I know you must have imbibed in consequence of the innumerable and infamous calumnies which were propagated on this subject. If you had brought the most inveterate prejudices into court, I am sure they must soon have been effaced; for certain I am, that the first two

hours of this trial, if not sufficient to clear the prisoner, were enough to convince you how vilely he has been abused; by none more than by myself; not, indeed, by propagating the calumnies which I heard, but by too easily believing them: believing to such a degree, that I at first refused to be his counsel; and at last only consented at the request of a common and respected relation. But the very first inquiry which I made into this affair, satisfied me, how much injustice I had done the prisoner, and I trust this day that I shall make him reparation.

Gentlemen, fatigued as we are, I shall not trouble you with going into the evidence in detail. I shall take the great features of this cause, referring to the particulars of the evidence, only in so far as may be necessary to confirm the arguments which I shall advance.

But, before proceeding to the evidence, it is necessary to say a word, and but a word, on the law as laid down to you by the learned lord: I shall not pretend to enter the lists of definition either with the learned lord himself, with M'Kenzie, or with Hale; they are all great and able men; but I suspect much that they are better lawyers than physicians, and that they have given way too much to a professional propensity to subdivide and methodise. For my part, I shall not attempt to reduce madness to fixed rules; nor to define the different kinds and degrees of it, which I have always found to be as numerous and diversified as the unhappy persons who were the subjects of the disorder. I shall not speak to you in technical language, which none of us probably understand, and which, unapplied to particular cases, and unexplained by examples, conveys to my mind no positive and precise ideas. Indeed, after all the learned divisions and sub-divisions of M'Kenzie and Hale, they are both obliged to confess, that, these notwithstanding, the jury must judge from the circumstances of each particular case. For my part, I think there is but one just and practical observation on this subject in either of their works: that, whatever may be the general and ordinary degree or symptoms of the disorder in the patient, if a total insanity be upon him at the time, it excludes the possibility of guilt or of punishment. This is common sense, and it can be reduced into practice. By this rule I desire you to try the prisoner; and, if you wish for a definition either of the kind or degree of his insanity, you will find a better one in the evidence before you, than in the abstract and speculative definitions of M'Kenzie or Hale. If you wish for the *kind* or species of his madness, the witnesses will tell you, it was of that kind as to make them apprehend mischief, either to himself or to others; to make *him* apprehend plots, and mischief, and danger from all around him, particularly his best friends, which Dr. Monro told you was the never-failing and strongest symptom of entire madness. It *was of that kind that* made Somner say, he had no doubt that he would have shot any person who attempted to seize him; it was of that kind, which made Fraser think him "*dangerous to mankind.*" Descriptions like these, from persons who witnessed his behaviour, are worth all the divisions and definitions of the learned lord, and his two learned authors.

If you wish for the *degree* of his disorder, it is in some measure implied in the above description of its kind, and can be farther read in the advice which every person gave to confine him, and in the preparations which the family had actually made for coercion. Indeed, his madness seems to have passed *degrees*, and to have arrived at its *crisis*, as Fraser emphatically termed it.

If therefore, gentlemen, you are satisfied, from a review of the evidence, that his case does correspond with the above description of it, you will acquit the prisoner, although you should not find his case to agree exactly with the presumptuous definitions of the lawyers: presumption indeed! to attempt to trace the infinite varieties of a disordered imagination, which, even in its sound and natural state, is the most boundless and unfettered faculty of the human mind. We, gentlemen, will pursue a humble and a safer path; and, instead of endeavouring to arrange, and class, and define and limit madness, we will endeavour to trace its progress and effects in one individual unhappily afflicted with it.

I shall now, gentlemen, proceed more directly to the case; and I wish first to call your particular attention to an argument and admission of the learned lord, while it is fresh in your recollection, and of which I wish you never to lose sight. It is decisive of the case for the prisoner; and I was astonished that the learned lord could dwell on the topic so long, without observing the fallacy of his argument.

He admitted that it was proved by a variety of witnesses, particularly the gentlemen from England, that the prisoner had been frequently deranged to a very considerable degree. But he contended, that their testimony must be thrown entirely aside; because, whatever was the actual degree of derangement to which the panel had formerly been liable, his relations, who are proved to have known of it, did not conceive it to be total or dangerous, because it was proved that they had never thought of taking any measures for securing him. Now, this certainly proves, as the learned lord has justly stated, that his derangement had never before (except in the instance sworn to by Dr. Farquharson), amounted to total and absolute insanity.—That his disease had never before come to a *crisis*, to use the emphatical words of Mr. Fraser.—That his relations were not afraid of mischief from him, at least to others. But, because he never before was totally and dangerously insane, could any person have justly concluded that he never would be so; or is it

any proof that he was not *at the time* of this accident? I admit, in the words of the learned lord, to which I beg to refer you while they are fresh in your recollection, that his derangement on former occasions does not appear to have made such an *impression* on the family, as to suggest to them the propriety or necessity of adopting any mode of coercion. I admit with the learned lord, that the impression which his family had of his former attacks, is the best evidence we can have of their nature and degree. In this admission, I perfectly agree with my learned friend. I desire to press it most earnestly upon you, for it is an admission from which I will not suffer him to depart. But, if the impression which his disease made on his family on former occasions, is to be evidence that he was not totally mad, what will the learned lord make of the impression and conduct of the family on the last occasion? What will he make of the very same impression entertained by every friend of the family? What will he make of the advice which they received from those friends, whether of the profession or not? If the impression which his situation made on the family is to be evidence, and it certainly is the best, then what was their impression at the time of the melancholy event? Is it not proved that every member of the family was convinced of the absolute necessity of immediately securing him? Is it not proved that every friend who saw him was of the same opinion? Is it not proved that they gave the family, and in particular sir Francis, information of their opinion, accompanied with the most earnest and decided advice? Was not this advice seconded by their medical friends, who, to the common observation of mankind, added the certainty of science and experience? Did not this impression travel with the prisoner from place to place? Wherever he was seen, did not persons, without communication or concert, instantly conceive the same opinion of him? He is seen in Edinburgh as early as the 28th March by Dr. Home and Dr. Farquharson, who communicate their observations of his malady to each other. Dr. Home informs sir Francis, who instantly tells him he had observed the same. The prisoner goes to Gilmerton; his situation is remarked by his sister, who communicates it to Mr. Somner; but she only tells Somner what he had observed before. He goes to Mr. Goldie's, who forms a decided opinion that he ought to be secured; Mr. Goldie goes to Gilmerton to impart this opinion to Miss Kinloch, who meets him only by telling him that she had already anticipated his advice, and had sent for Somner. Somner and Fraser come to Gilmerton on the Monday morning, and not only advise, but urge and expostulate with them on the necessity of securing him. At last, on the fatal night, Walker sends from Beanston *a message by Reid*, to send up all the servants *for that purpose*; and Reid, in the very act *of delivering* the message, is frightened by the prisoner's appearance. In the course of the evening, M'Millan interposes with similar advice, and obtains permission to write for Somner; and how does he write? he writes as of a matter perfectly familiar, and of which they were all perfectly aware. He desires him to come immediately, and bring with him *what is necessary*. Does this appear vague and inexplicit to Somner? Is he at any loss to interpret it? No; and how does he interpret it? he understands it at once to mean a keeper and a strait waistcoat; so well did he know what the family thought, and what they had intended to do. When he comes with the apparatus, does he retract his advice, or do the family alter their opinion? Is their "impression," to use the learned lord's favourite word, altered or diminished? No; Somner continues to advise, and they to resolve: not satisfied with the assistance in the house of three or four men servants, besides a post-boy from Haddington, they send for three labourers from the farm. Here is another impression for the learned lord, an impression of danger, as well as of necessity. They must have seen ten thousand circumstances in his behaviour, which cannot be conveyed to you by description, before it would have been thought necessary to take such precautions as these. But we are told that the farm servants were dismissed, and this is given as a proof that coercion was abandoned. If it was, the event only proves that it was most *foolishly* abandoned; but the contrary is proved; it is indeed true, that the labourers were dismissed, under the delusion of a momentary calm; but is it not proved, that in a few minutes they were again convinced of the necessity of coercion? Is it not proved, that, after his first appearance in the parlour, the servants were called in, and desired to be in readiness in case of his return? When he did return, and sir Francis followed to secure him, I have no doubt that he expected to find the servants standing ready to assist; indeed this is clear from what, in his dying moments, he said to Dr. Home; not finding them there, he attempted it by himself, and by his other brother Alexander; and well might he acknowledge, it was madness to do so.

Such, then, was the impression of the family on this occasion of the absolute necessity of securing him. Had it been an "*impression*," only, I should have maintained it to be good evidence, even although, from false delicacy or other motives, it had never gone beyond an impression. But, in fact, you see them so perfectly satisfied that their impression was right, that they proceeded to act upon it, by making most wise and salutary preparations, and then spoiling all by an injudicious and ineffectual attempt.

But their *attempt*, though fatal to themselves, is sufficient for me. It is better than even the learned lord's "impression;" and proves to demonstration, that they were fully satisfied of the truth of the opinion they had

formed, both on the degree of his derangement, and the necessity of coercion.

And now, gentlemen, in the face of all this evidence, in opposition to the opinion of every friend who saw him; in opposition to the advice of every professional person consulted on the occasion; in opposition to the impression of the family, to the attempt of sir Francis; you, sitting here, wanting the strong evidence which they had, his eyes, his looks, his gestures, his tones, his whole demeanor; you sitting here, I say, are desired presumptuously to determine, that all, all were mistaken; that the prisoner was not mad, and coercion not necessary; and this you are desired to do;—Why? Because he killed his brother! Wonderful conclusion! If any thing was wanting to confirm the evidence arising from the opinion of the family, that fatal event puts it beyond doubt. If it could be doubted whether sir Francis too thought him totally deranged; I answer, he has sealed his opinion with blood. They had been taking precautions all night against danger and mischief from the prisoner; and, when the dreaded mischief happens, it is given you as a proof that their precautions were unnecessary; admirable logic! that they apprehend danger is clear.—Why? They have told you because they thought him mad; the mischief happens; and that which they dreaded as the natural consequence of his madness, you are to take as a proof of the soundness of his understanding.

Gentlemen, I am tired with dwelling upon this topic. This defence, arising from the conduct of the family is such, that I cannot conceive what answer can be made to it. The learned lord, I am sure, can make none; for the argument was his own, and most sincerely do I thank him for it. For my own part, I think we have proved much more than we were bound to do; for, if there had been ten times less evidence of insanity by others, and in other respects, I think the conduct of the family would be evidence enough.

Gentlemen, this leads me to put a question to the learned lord, of which he does not seem to be aware. He has contended that the prisoner's malady was mere melancholy and depression of spirits—that he was not mad — was in the perfect knowledge of right and wrong—knew friends from foes —and was perfectly conscious of the nature of a crime. What then must the learned lord say of the attempt to confine him? Is he prepared to say, that sir Francis and the family were in a foul conspiracy against the prisoner? that they were attempting against him a crime little less horrible than that of which he is accused? Is he aware that the prisoner's conduct would then have been completely justifiable? for, if there is any crime or attempt in nature, which may be repelled by the death of the aggressor, it is a conspiracy and attempt to confine, as a madman, a *person who is not so.* The learned lord was not aware of this dilemma; but I will relieve him from it. He never dreamt more than I, of charging sir Francis with such a crime; and therefore he must concede to me, that the prisoner's situation justified the means that were attempted to secure him, and, if successful, would have justified his confinement. I ask no more; and, if the case had been my own, I would have rested it here. But I am too much interested to omit other circumstances, though not so material; and therefore, tired as we are, I think it my duty to proceed.

Gentlemen, I have not yet done with the impression of the family; the attempt of the family to confine the prisoner, is not only good evidence of derangement in general; but what the learned lord observed, of their having formerly neglected to do so, proves to demonstration, that they never would have made such attempt, but from the most overruling and cruel necessity. If the impression of the family is evidence of the existence of derangement in general, it must also be good evidence of the measure of that derangement: indeed the learned lord has so pleaded it, and I entreat you to keep him to his argument; I again repeat, that I entirely agree with him, that the circumstance of the family never having on any former occasion taken measures for confining the prisoner, is the best evidence, that, in all the former instances which fell under their observation, they did not think the malady arrived at such a height as to require coercion.

But what conclusion is to be drawn from that circumstance, with reference to their conduct on the late occasion? If they did not attempt to confine him formerly, because they did not think him sufficiently deranged to require such measures; then, their attempting to confine him on the late occasion, ought and must be held as good evidence that they did then conceive his malady to be arrived at that crisis (as Fraser expressed it) which rendered coercion necessary, both as the means of cure and the means of safety. If an argument is to be drawn from the conduct of the family, as descriptive of their opinions, that argument must be allowed to make for the prisoner as well as against him The family, on former occasions, says the learned lord, did not think the prisoner totally deranged, because they neither attempted nor intended to take measures for securing him. The family, on the last occasion, did intend, and actually attempt against the prisoner, the most marked and decisive means of coercion; and therefore, they did, on this occasion, consider him to be totally insane. This is sound argument and sound sense, unless my understanding too be woefully deranged.

Gentlemen, the conduct, however, of the family, becomes much stronger evidence of the measure and degree of the malady, when the nature of the disease, and the feelings of the family are considered. Madness is a

disease, which the family would not be very willing to admit, and still less to proclaim; the fever, which was the cause of it, happened abroad, and seems to have been little known in this country; for which reason the family might justly be apprehensive, that the world would conceive the malady to be of the hereditary kind. I say, therefore, it is a disorder which you will not presume the family would be very willing to admit; you will not presume that they would make any unnecessary exposure of their friend's misfortune, when they were sure that the world, with a most uncharitable perverseness, would turn his misfortune to the family's disgrace. When, therefore, you see the family attempting decisive and public measures against the prisoner, you may safely conclude that it was not unnecessarily done. No slight, no common degree of derangement would drive them to measures so repugnant to their feelings so repugnant to their interest. This would have been the fair presumption even if there had been no evidence of the feelings of the family on the occasion; but it is not left to presumption; it is proved incontestably, that the family did know and feel how deeply their honour and their interest were concerned in the measures they were taking. Sir Francis seems to have been particularly alive to the distresses of their situation. Has not Fraser proved to you, that, when he urged him, in the garden on Monday forenoon, to secure the prisoner (his malady, in his opinion, being then come to a crisis, as he emphatically expressed it), sir Francis seemed much concerned: But concerned for what? Was it for the prisoner only? No; a good man like him could not but feel concern for a brother in such a situation; that would never have struck Fraser at the time, and still less would it have occurred to him to mention it now: but he added, that sir Francis seemed to feel it as a family affront. These were his words; and so much did the witness consider sir Francis's concern as arising in part from that cause, that he has sworn, he thought it necessary to expostulate with him on the subject, and to remind him of the variegated nature of human affairs, and the imperfect state of happiness below.

And is sir Francis the man, who you are to suppose would, within 24 hours, not only direct, but himself personally attempt, a measure which he considered thus to be affronting to his family, without the most decided and determined conviction of the necessity of the painful step which he found himself compelled to take? Still, however, you see that he could not divest himself of his feelings; the family affront still appears to have dwelt on his mind, and to have produced that fatal irresolution, that false delicacy, that criminal lenity, I had almost called it, which was the *true cause of* the unfortunate event. We find *him directing his confinement* one moment, *and countermanding* it the next; at one time sending for the assistance of the farm-servants, and then dismissing them on the most equivocal appearance of abatement in the disorder, or rather on the fallacious symptoms of a temporary calm; and at last, when he did attempt it, doing it in such an undecided and ineffectual manner, as clearly proves the confusion and disorder of his own mind, and how much his feelings were struggling with his duty. Had sir Francis been as firm and determined in conducting the attempt, as he was convinced of the necessity of it, the prisoner might now have been blessing him for his kindness, instead of lamenting his loss, and blaming his indecision. Infatuated conduct! unaccountable, but on the supposition of a struggle between his feelings and his conviction: for what else could make him trifle and hesitate, after he had once taken his resolution, but his extreme aversion to incur this family affront? But, however fatal that irresolution was to him, however cruel to the prisoner, however much I may, as a man, join with the prisoner in deploring the indecision of his brother, yet, as his counsel, I did rejoice to hear it: it proves, beyond the power of cavil or of sophistry to obviate, with what extreme reluctance sir Francis yielded to the advice of his friends, and the conviction of his own senses: it proves how completely he must at last have been convinced of the necessity of coercion, before he brought himself to attempt it: it proves that he apprehended still greater disgrace to the family from his brother being at large, than could arise from his confinement: it proves that he did not attempt to secure him, till he not only saw that the affront was unavoidable, but that censure and disgrace would fall on him, if he resisted longer the conviction of his mind: he failed in the attempt; but the attempt proves his conviction, and his last breath bore testimony to the necessity of his conduct.

Gentlemen, were the cause my own, I would leave it here. I can never strengthen it; I cannot foresee what answer can be made to the evidence arising from the conviction of the family; if there were no more in the cause, I must prevail——prevail, by the admission of the prosecutor himself, for the evidence arising from the conviction of the family, was his own argument, and I have only made the proper application of it.

But, gentlemen, on the part of the prisoner, we have gone a great deal farther; you have the clearest proof of the opinion of the family, and you have your notes before you; I desire you to say, if either there, or in your memories, you can find one circumstance, tending even to a suspicion, that the opinion of the family was wrong, that their measures were unnecessary, that the prisoner was not insane: I know you cannot; on the contrary, I could prove to you, that every one circumstance, which has appeared in evidence, tends more strongly than another to justify the

opinion of the family, and to prove the prisoner's complete insanity, had the conduct of his friends been less convincing on the subject.

I will not weary you, gentlemen, by detailing the evidence, because I think I see that you are already with me; allow me only to recall to your recollection the leading circumstances of the case. First let me ask you, gentlemen, is there any thing improbable in the allegation that the prisoner was insane? Was he an unlikely person to be insane? Or was he not just such a man, as, to use his father's prophecy of him, would one day be confined? had not insanity become in him an habitual disease? Was not his system predisposed, I think they call it, to this disorder? Had it not a most adequate and melancholy cause? Will it be said that a West-India fever does not often leave behind it occasional derangement? Will it be said, that it did not do so in the present instance? Look back upon the evidence of his brother-soldiers, who first discerned the effects of the disease; a body of evidence, which I was not at all surprised to hear the learned lord desire you to lay out of view. Mark the progress of the disorder; has it not been proved, that his family and friends thought it growing on him? Did it not once before end in confinement? and is it so extraordinary, that it should end in it again? Is it not natural, nay, is it not proved to you, that repeated attacks of insanity weaken and unhinge the mind? Is it not known, that the mind in that state preys upon itself, and that every attack of the disorder is in itself, in some degree, a cause of its return? Are you surprised to find insanity, even without a cause, in one who had been occasionally subject to it? Are you surprised to find a total insanity, in one who had been often partially deranged? But has not the cause of the present attack been proved? or, at least, has it not been traced back to a stroke which his mind had very lately received? Within less than two months of the accident he had lost his father; it is proved that he loved him with the most filial piety; it is proved that he paid him uncommon attention during his last illness; it is proved that he was extremely affected by his death. Were it necessary, I might argue that this is no trifling ingredient in this cause; a man who has shown such warmth of affection for an aged parent, at a time when those instincts are supposed to be much effaced, is not the man, whom, in two short months, you would expect to find the wilful murderer of his brother. I have no occasion, however, for an argument like this, and therefore shall not dwell upon it; but it is proved that he was uncommonly affected by his father's death: Gentlemen, we have all suffered the loss of dear relations; I hope we too have felt all that nature ought to feel. But, we met those afflictions with sound minds and vigorous understandings; we were capable of receiving the consolations of business, of philosophy, and of religion, and of allowing them all their proper force; we gradually resumed our relish for friendship and society, and were comforted: but can any of us pretend to say, what effects such afflictions might have had upon us, if we had met them with a mind, weakened, unhinged, and shattered by previous calamity? had insanity been lurking in our system, can we say, that such affliction might not have called it into action? That it did so with the prisoner, is proved beyond a doubt: it produced, at first, as was most natural, uncommon depression of spirits, not mere ordinary grief, but what the prosecutor himself admitted, did amount to real, but partial derangement; this was followed by an uncommon agitation of the nervous system, not arising from intoxication (as it seemed once attempted to be proved, though it has been since abandoned), but from the progress of his distemper; this was accompanied with a restlessness, an incapacity to remain any time in one place, and a desire to wander and hurry about, which would of course increase the agitation and irritability of the system, till, by a complication of causes, it ended in the delirium and insanity which is our present defence. Is there any thing unnatural in this? Does the effect not correspond with the cause? Is not the disorder just what you would have expected, from a mind so previously unhinged? Were not the consequences just what you would have expected from a mind so totally deranged? His friends and family thought him dangerous both to himself and others; had the mischief happened to himself, as it is too plain he intended, who would have been surprised? But is it less surprising that it should happen to another? Both were equally dreaded by his family; else why bolt their doors, and why so much preparation of assistance when it was resolved to seize him? The friends apprehended danger from his insanity, and when the danger happens, which they dreaded, it is given you as evidence that their fears were vain; amazing conclusion! That the very circumstance, which, if there were any doubt of his insanity, is of itself almost enough to prove it, should be considered as throwing doubt and perplexity on a case, in which every soul concerned has told you that they had none; every witness who saw him recently before has told you, that they dreaded mischief from his insanity; the mischief happens, and then the insanity is denied!

I think, then, gentlemen, I have shown, that the opinion of his family is completely corroborated by the probabilities of the case; and that both the disorder itself, and the fatal effects of it, are exactly such as were to be expected from the previous habits and situation of the prisoner's mind, unhinged by disease, shattered by repeated attacks of derangement, and at last shocked by a grievous and recent affliction.

Let us now inquire, gentlemen, if the state of his body, if his actions and his conduct correspond with the opinion which his family had formed.

On the subject of the state of his body, some questions were put at an early period of this cause, by two gentlemen of the jury, who from those questions I perceived were gentlemen of the profession. I am not myself qualified to judge, whether the circumstances they alluded to are or are not proper and decisive symptoms of derangement. But I conclude that they are good judges; and I desire you only to judge of the prisoner's condition by the questions which they put. One of them put this question to Mr. Somner, if want of sleep, and an uncommon capacity to resist the calls of hunger and the impressions of cold, were not usual and decided symptoms of insanity? Mr. Somner told you, that his experience of the disease did not enable him to give a decided answer. Still less does mine, although I certainly have heard, that those are usual and strong marks of madness. I presume at least that the gentleman thought so, who put the question.

Let us now then examine his situation, with a view to this question, and see what answer it suggests.

As to want of sleep, it is proved beyond all controversy, that this was his constant complaint. Miss Kinloch has proved, that on Sunday he was wandering the whole night up and down the house of Gilmerton, from room to room, and tossing himself on every bed. When his brother and M'Millan saw him at Haddington on Monday, at the time when Somner brought him to the inn, it is proved, that when his brother asked him how he did, he answered, "Oh, Sandie, I am very ill, I cannot sleep." It is proved, that late on Monday evening, he made his escape from them; as they were carrying him to Gilmerton; and it is also clear that he had wandered in the woods all that night. It is therefore established, that, for two nights at least previous to the accident, he had not closed his eyes, besides the constant complaint of want of sleep, to which he had been previously subject. Walker at Beanston, indeed, seems to think that he slept some hours while in his house; I think this extremely doubtful, from the condition in which Walker found both the prisoner and his room, when he went up to waken him. But let it be held that he slept at Walker's, I will yield that to the prosecutor; but still it is proved, that want of sleep was his constant complaint. It was probably both the cause and the effect of his disease; and, if he did sleep at Beanston, and yet awoke in the outrageous state which Walker and Reid have described, it only proves more strongly the settled and serious nature of his malady, which gained ground, notwithstanding a comfortable sleep, the most *likely and effectual* means of producing an *abatement*. Whether, therefore, he slept or not, is indifferent to me; if he slept, and yet awoke more deranged and outrageous than ever, the more violent and decided must be his insanity. If he did not sleep, then it accounts for the degree and progress of the disease. But for me it is enough to show, that want of sleep was his constant complaint, and that, in fact, he had not closed his eyes on Sunday and Monday night. Follow him to Gilmerton, and you will find the same complaint. When sir Francis had seen him to his room, and asked him how he did, he answered him by complaining that he could not sleep nor rest; and, in point of fact, you find that he was spending that night in the same restless and agitated state as the two preceding, for, at three in the morning, when the accident happened, he had not closed his eyes, and was wandering through the house. If then, gentlemen, want of sleep be a symptom of insanity, as I do believe it to be, both from my own information, and from the question put by one of yourselves, I think it is proved in this case to no ordinary degree. But I also believe that want of sleep is not only a symptom of insanity, but contributes powerfully to the progress and violence of the disease; in which case, this circumstance acquires additional importance, and fully accounts for the disorder having made such rapid progress in so short a time.

Now, as to his resisting the calls of hunger, we could have brought complete evidence on this subject, if our fatigue had admitted of it; for, we have every person in waiting in whose house he had been for at least a week before. But enough is proved, to establish that one of his symptoms was a total want of appetite. Dr. Home and Dr. Farquharson have proved, that a total want of appetite was one of his complaints some time before he left Edinburgh; and, to come nearer the fatal event, I think you have every reason to believe, that he had not tasted food for at least 48 hours preceding. Mr. Goldie has proved to you, that he arrived at his house from Dunbar about half past three on Sunday; consequently his last meal that day, must have been his breakfast at Dunbar. He refused to eat at Mr. Goldie's; and, though he asked for a little toddy, that witness has told you that he was unable to carry it to his head. He remained with Mr. Goldie near two hours; and, before he arrived at Gilmerton, it is proved that dinner was over, that he refused to eat, and in fact he took nothing but a little brandy and water that night. On Monday morning it is clear that, instead of food, he had taken poison, to counteract which, he was made to drink several gallons of hot water, a circumstance which would add to the debility of his system. He left Gilmerton on Monday about two; and, after going half way to Edinburgh, he returned to Haddington, where Somner brought him to his brother and M'Millan, and there it is proved that he could not eat, although pressed to do it; at night he made

his escape from the chaise, and, after wandering in the woods all night, arrived at Walker's at Beanston about five in the morning; and Walker has proved that he had nothing there but a saucerful of tea; some toasted bread was brought, but he could not eat it; from that he went home to Gilmerton, when it is proved, that though he once asked for meat, he could not eat it when it was brought.

If, then, a want of appetite for food, be another symptom of insanity, in what stronger degree would you wish it to be proved?

Patience of cold is stated as another symptom; do you desire evidence of that? See him wandering all night through the house of Gilmerton almost naked; and, if that will not satisfy you, follow him to the woods of Beanston, and there view him, "stretched out and bleaching in the northern blast."

Let, then, the gentleman of the jury who put that question receive his answer, that patience of hunger, cold and sleep, are symptoms of insanity, and that they concurred in the prisoner to no ordinary degree.

So far then, I say, that the opinion and impression of the family is again confirmed by the state of the natural functions and appetites of the body, as well as the tenor of his mind.

Now, look to his actions and his conduct, to his demeanor and whole behaviour, from which every professional man has told you that insanity is most easily perceived. But alas! gentlemen, all these circumstances, which made such impression on the witnesses, are lost upon us. Description fails us here; language cannot describe looks, and gestures and demeanor; there is indeed a language of the eye, but it can be expressed only by the eye, and, when that is not seen, the impression cannot be conveyed. You have indeed been told of the wildness of his looks; but you cannot conceive this by description, nor can you understand the degree of wildness, otherwise than by its effects on those who saw it, *they* believed *him*, from his looks, to be totally deranged, and *you* must believe *them*.

As to his gestures and demeanor, turn to the evidence of Fraser, of Walker, of Reid, and Somner. I will not follow them minutely. But you cannot have forgot Fraser's description of his loading the blunderbuss on Monday forenoon. But surely the loading of a blunderbuss or pistols, by a person just stepping into his chaise for a journey, is in itself neither an uncommon nor a terrific occurrence; and yet Fraser told you he was in the greatest alarm, and expected every moment to see the blunderbuss levelled at himself. What alarmed him, I say? Not the mere loading of the blunderbuss. But he had marked his mad demeanor. It was his eye, his looks and gestures, the terrible agitation of his whole frame, which was soon afterwards observed by Somner, even when the prisoner was half concealed by his chaise.

All these things gave both these gentlemen the most decided conviction of his insanity; and their opinion ought to carry conviction to you, for it is their *opinion* in this case to which you ought to give weight, and not to their description, which can give no adequate idea of his condition and behaviour.

Recollect also the numberless circumstances to which Somner has sworn. Begin with the scene at Haddington; view the prisoner wandering from the room to the yard, from the yard to the garden, from the garden to the street, from the street back to the room, in such a manner and such a condition, that you see it was thought necessary to give the ostler orders to watch him. See him next on his road to Gilmerton, whither his friends were carrying him for the best of purposes, making his escape from the chaise in the middle of a dark and dreary night. From what and to what did he escape? He escaped from his best friends, from those who meant his good, from his only means of cure, to wander in the woods of Beanston, and dwell with the beasts of the field. And yet this is the knowledge of good and evil, of friend and foe, which you are desired to believe, although I observed that the prosecutor never once ventured to put those questions, after the remark which I made upon them during the examination of Mr. Somner.

But let me proceed with the deposition of that gentleman. Follow him on the fatal night, and you will find his account of the prisoner's behaviour pregnant with innumerable proofs of the most decided insanity. His perpetual restlessness, his incoherent conversation, his threats to shoot Somner at the head of the stairs, his affection for sir Francis at one moment, his suspicion that he had poisoned him the next, his wandering through the house half-naked, and lastly his frantic and outrageous gestures, when he came down to the parlour first, when the final resolution was taken to secure him, and again at the time of the infatuated and ineffectual attempt.

If these circumstances in his conduct are not thought sufficient to support the opinion and attempt of the family, turn to the evidence of Walker and of Reid, and you will find abundant confirmation; I will not repeat what they have told you; they were among the last witnesses, and I saw the strong impression which their evidence made on the whole Court: one circumstance only I will mention, the vision of the light from heaven and the burning bush; visions such as this, are the constant effects of a disordered imagination, and the horrors of them never fail to increase the insanity by which they are produced.

I leave the rest of Walker and Reid's evidence to your own recollection; I am sure it made a sufficient impression on you, and I think I may venture to say, that not one of you would have changed places with them, to be lord of the British empire.

But, gentlemen, extend your views beyond the fatal event, and you will find that the impression of the family continued exactly the same; what was their first instinctive movement? Was it to apprehend a felon? No; it was to seize, overpower, and secure a madman, it was to carry into execution the attempt which sir Francis had so egregiously mismanaged, in short it was to apply the strait waistcoat, and this, in the strongest manner, established the opinion of the family on the nature of the deed.

From his behaviour, however, after the accident, the learned lord has drawn the only thing like an argument in support of the prosecution; he argued, that he could not be insane, because, after the event, he recollected what he had done; but, gentlemen, that by no means disproves his insanity. The most complete insanity is not attended with a total loss of memory; else how could madmen remember their keeper, and those circumstances which make them stand in awe of him. Nay, in some points, the memory of madmen is most perfect and tenacious; they never forget an injury, they never forget their revenge; but, gentlemen, the recollection which the prisoner showed of the fatal event, must be taken altogether, and then the argument founded on it falls instantly to the ground. How did he recollect the event? Did he recollect it as it really happened? Did he recollect it unconnected with those frantic notions which he had previously conceived? What did he say to the servants who seized him? he called out to them to let him alone for he had not an hour to live: does not this prove that he was still under the impression, that his brother had poisoned him? Remember too, what he said to Mr. Goldie, that he had been poisoned, and that there was a deliberate plot to murder him that night, and that what he did was in self-defence. And yet this is the recollection from which the learned lord would infer the soundness of his understanding. Dr. Monro, however, who knows a little more of insanity than either of us, gave you his opinion, that such groundless jealousies and suspicions against friends and relations, was a constant and certain mark of perfect madness. What the prisoner therefore said of the event, must be considered more as the creation of a disordered imagination, than the impression of a sound and sane memory. But, says the learned lord, we find him perfectly recollected a few days afterwards in Haddington gaol; and he seemed to treat so rapid a recovery as impossible. But, first, I deny that he was perfectly recollected. He may have been so at times; but Dr. Farquharson has expressly told you that he found him often very incoherent; as to his rapid and perfect recovery, I wonder in what part of the proof the learned lord found that; Dr. Monro, and Mr. Bell, indeed, who visited *him only for a few minutes once or twice a week, did not observe insanity*; but they most candidly and scientifically told you, that this could afford no proof that he might not be often incoherent at other times; accordingly Drs. Hume and Farquharson, who saw him daily, sometimes twice or thrice, have told you that he continued to be frequently deranged; nay, did not he once behave in so outrageous a manner as to determine major Mackay never to return to see him? did not he say so to Dr. Home, as they went down the stairs of the prison? and did not the doctor answer, that it would be absolutely necessary to apply the strait waistcoat, if he continued equally outrageous? What, therefore, could the learned lord mean by a rapid recovery? That, in some short time, he grew comparatively better; that now, at the distance of two months, he is, thank God, as well as his grief and sorrow, and anxiety, will permit him, is true; but that his recovery was so rapid and extraordinary as to throw doubts even on the existence of his disorder, I am sure that no man who hears me will believe.

But the learned lord, in this fell into a manifest inconsistency; he has now argued that he could not be very much deranged at the fatal moment, because he became so soon well; but the learned lord was pleased, in another part of his speech, to make a much more rapid recovery for the prisoner, than that which he has treated as impossible. He seemed very candidly to admit, that his behaviour at Walker's at Beanston was such, that, if he had committed mischief on him, it could not have been murder, on account of his insanity.—This was about six o'clock in the afternoon; and yet, by three next morning, that is in nine hours, he supposes such a rapid recovery as to make that murder then, which would have been madness at Beanston. This is a cure infinitely more wonderful, than the prisoner's recovery.

I will not, gentlemen, dwell an instant on the case of lord Ferrers.*—It agrees in no point with this, but that the word madness occurs in both; lord Ferrers did not fail in proving that he had been occasionally deranged but he failed totally in proving that he was deranged at the time, or rather it was clearly proved that he was in his perfect senses; but we have not only proved previous derangement to no slight degree, but a derangement at the time, gradually increasing till it ended in a crisis of delirium; lord Ferrers was proved to have acted from the most determined revenge, and to have laid his schemes in the most deliberate manner; while, previous malice in the prisoner here, though once attempted to be proved, is now expressly given up; and, as for deliberation, it is absurd to talk of it. In short, while justice and law exist, the cases of lord Ferrers and of the prisoner will ever be regarded as in exact opposition and contradiction to each other.

* Reported in this Collection, Vol. 19, p. 885.

I think I am now, gentlemen, drawing to a conclusion. I think I have marked the great and leading features of this case, to which it is proper for you to direct your attention; many things I have no doubt omitted; some indeed I have omitted by design, for I wished not to distract your attention from the leading circumstances of the case; and, relying on the goodness of my cause, I wish you to retire, before you are completely exhausted; for, the sounder your judgment, the more certain my success. I am indeed confident. It is not usual for a counsel to deliver his own opinion, nor perhaps is he entitled. But the example has been set me, and perhaps even my opinion may carry some weight and authority along with it; perhaps also I owe it in justice to the prisoner, for having once listened to the calumnies against him; with truth, then, and pleasure I can say, that the very first day's inquiry which I made into his case, effaced the prejudices I had conceived. My opinion has every day grown stronger in his favour; and now, laying my hand upon my heart, and and as I hope for mercy at the throne of heaven, I can say, that in my conscience, I believe him innocent.

SUMMING UP.

Lord Justice Clerk. (Mac Queen).—Gentlemen of the Jury;—That sir Francis Kinloch was killed by the hand of the panel, is proved beyond a doubt; you have therefore to consider the defence on his part set up. Now, it will occur to any man of sound sense and judgment, that there are different degrees of insanity.

If a man is totally and permanently mad, that man cannot be guilty of a crime; he is not amenable to the laws of his country. There is no room for placing the panel in that predicament; for, as a person, totally and absolutely mad is not an object of punishment, so neither is he of trial.

The next insanity that is mentioned in our law books, is one that is total, but temporary. When such a man commits a crime, he is liable to trial; but, when he pleads insanity, it will be incumbent on him to prove that the deed was committed at a time when he was actually insane.

There is still another sort of distemper of mind, a partial insanity, which only relates to particular subjects or notions; such a person will talk and act like a madman upon those matters; but still if he has as much reason as enables him to distinguish between right and wrong, he must suffer that punishment, which the law inflicts on the crime he has committed. You have therefore to consider the situation of the panel, whether his insanity is of this last kind, or whether he was, at the time he committed the crime, totally bereaved of reason. For, if it is your opinion from the evidence, that he was capable of knowing that murder was a crime, in that case you have to find him guilty.

Gentlemen, this is a question of some nicety. You have the testimony of certain witnesses, that he was correct and coherent in his answers; and you have, on the other hand, evidence that he was totally deranged by a fever in the West Indies. In regard to a later period, the conduct of the family with respect to him, is also to be considered. It has been observed for the prosecutor, that no steps were taken to secure him, till just before the accident happened, whence it is attempted to be inforced, that the family thought his disorder only a sort of melancholy, and not a derangement of such degree as required confinement. I must say, that if this event had taken place eight days sooner than it did, this circumstance would have come with very great force against the panel; but, in the actual circumstances of the case, it comes with more force in his favour, and is a consideration of weight upon his side. For, it is proved that a nurse had actually been provided to take care of him, and a strait waiscoat prepared to put on him; and pity it is that this plan was not timeously put in execution.

Gentlemen, I shall not take up more of your time. You will consider the evidence well, and decide according to your consciences. If you are convinced that he knew right from wrong, you will return a verdict of guilty. On the other hand, if it shall appear to you that he was not able to distinguish between moral good and evil, you are bound to acquit him. But gentlemen, I think that, in all events, a verdict of Not Guilty, is not the proper verdict for you to return. I think you ought to return a special verdict, finding that the panel was guilty of taking the life of his brother, but finding also that he was insane at the time.

It was upon Tuesday morning about seven o' clock when the lord justice clerk concluded his speech. His lordship proposed that the Court should adjourn, after appointing a time for receiving the verdict; But, on a suggestion from one of the jury (in which the rest concurred, after conversing together in a whisper, for a minute or so), the Court agreed to sit until the verdict should be returned. The jury were accordingly inclosed; and after being absent about 35 minutes again appeared in Court, with a verdict written out in the following terms.

THE VERDICT.

At Edinburgh, the 30th June, 1795.

The above assize having inclosed, made choice of the said Andrew Wauchope of Niddry Marischal to be chancellor, and of the said Elphingston Balfour to be their clerk; and, having considered the criminal indictment raised and pursued at the instance of his majesty's advocate for his majesty's interest, against sir Archibald Gordon Kinloch of Gilmerton, baronet, panel, the interlocutor of

relevancy pronounced thereon by the Court, the evidence adduced in proof of the indictment, and evidence adduced in exculpation, they all in one voice find it proven, that the panel killed the deceased sir Francis Kinloch of Gilmerton, baronet, his brother-german, in the way and manner mentioned in the indictment; but find it proven, that, at that time, the panel was insane, and deprived of his reason. In witness whereof, their said chancellor and clerk have subscribed these presents, in their names, and by their appointment, place and date aforesaid.

ANDREW WAUCHOPE Chancellor.
ELPHINGSTON BALFOUR.

This verdict having been recorded, and read by the clerk of court, the jury were discharged, and the Court adjourned till Friday the third of July. From that day, however, their lordships again adjourned till Friday the tenth of the same month; and then on account of court of session's sitting later than had been expected, a farther adjournment took place till the Wednesday following.

Wednesday, July 15, 1795.

The Court met between ten and eleven o'clock in the forenoon, when, after the usual proclamation had been made, the clerk of court was desired to read the verdict of the jury. The lord justice clerk as president, then called upon the other judges who were present to deliver their opinions; which they did *seriatim*, according to their seniority.

Lord *Eskgrove*.—The jury in this melanlancholy case, have returned a distinct verdict, by which "they, all in one voice find it proven, that the panel killed the deceased sir Francis Kinloch of Gilmerton baronet, his brother-german in the way and manner mentioned in the indictment; but find it proven, that, at that time the panel was insane, and deprived of his reason. It is now to be considered by the Court, what must be the legal consequences of this verdict.

The crime charged against the panel in the indictment, is the crime of murder, which being one of the deepest dye, and aggravated in this case by the near relation between the parties, is indeed hardly credible to have been committed by any person endowed with the feelings and faculties of the heart and understanding; and we have here conclusive evidence from the verdict (which is our rule) that although the shocking deed of killing was committed, yet the perpetrator was at the time, by the will of God, deprived of that most invaluable gift of reason, the distinguishing blessing and ornament of the human kind. In this miserable situation could he be guilty of murder? I apprehend that he could not; because the essence of a crime consists in the *animus*, and intention of the committer, considered as a free agent, and in capacity of distinguishing between moral good *and evil. A human* creature deprived of reason, and disordered in his senses, is still an animal, or instrument possessing strength and ability to commit violence; but he is no more so than a mere mechanical machine, which, when put in motion, performs its powerful operations on all that comes in its way, without consciousness of its own effects, or responsibility for them. In like manner, the man under the influence of real madness, has properly no will, but does what he is not conscious or sensible he is doing and therefore cannot be made answerable for any consequences. On this ground I am clearly of opinion that the panel is not an object of punishment, and that he must be assoilzied from the charge of murder, for which he has been tried by a most intelligent and respectable jury of his country, whose verdict necessarily imports such an acquittal.

But, should your lordships agree with me in that opinion, it will not altogether exhaust or terminate the business; circumstanced as it is. Your lordships have farther to discharge the duty you owe to the country, or to the people, by taking such precautions for their future safety against similar violences as your wisdom may direct, and to which your powers are undoubtedly adequate. The unfortunate gentleman at the bar, has unhappily been, while in a state of insanity, the instrument of depriving society of one most valuable member. The verdict, in so finding, proves too well what horrid effects may flow from the deprivation of reason in a peson living at large, and the proof, which was adduced on the part of the panel, likewise shows, that, during years preceding the fatal event, he was in various degrees, and at different periods, labouring under the same kind of mental disorder, and even that (according to the observation of some witnesses), it had occasionally attacked him since his late confinement. God then only knows what might be the dreadful consequences of his enlargement, and being suffered again to mix with the rest of mankind. It is your lordships duty to prevent, as far as you can, a possibility of any person's suffering injury by that means; and the various adjudged cases standing in your records, well known both to the judges, and the counsel, where the insanity of the perpetrator at the time of the act was found sufficient to exeem from punishment, do all show, that your lordships, and your predecessors, have in every such case, pronounced that kind of judgment, which, where I now sit, it is incumbent on me to suggest.

I beg leave, therefore, to propose, that while your lordships assoilize the panel from the indictment for the crime of murder, you shall ordain him to be carried from the bar, back to the Tolbooth of Edinburgh, and grant warrant to the magistrates of Edinburgh, therein to receive and detain him during all the days of his life; but under this condition and exception, that, in case sufficient caution to the satisfaction of this Court, shall be found acted in the books of adjournal thereof,

under the penalty of ten thousand pounds sterling, that the panel shall be otherwise kept in sure and safe custody, during his life, the magistrates, upon such caution being so found shall be authorized to deliver over the person of the panel, into the hands and custody of such of his friends as may have given that security who will of course, be entitled to receive and detain him in custody accordingly.*

Lord *Swinton.*—The verdict has left no room for any difference of opinion in the Court.—It has found the prisoner insane, and deprived of his reason at the time of this fatal deed,—and therefore not guilty of the murder libelled. A person in the predicament stated by the verdict is inconscious of the difference between moral good and evil, and is not an object of punishment. Punishment is intended for example; but a person insane can have no design; and to punish him can be no example. The sentence of the Court, must, therefore, acquit the prisoner from this charge.

But, after this is done another duty remains upon the Court. It is a duty not only to punish, but to prevent all manner of evil. The same verdict which finds the prisoner not guilty of murder, finds it proved that he was the instrument of his brother's death. Hence it is to be presumed, that the same disease, which excited him to that fatal action, may recur, and be dangerous to other people. This we must prevent; and I therefore concur with the proposal made by lord Eskgrove, that the prisoner should be confined for life in the manner that has been stated. It is following the course observed by the Court in the like cases of Spence, Coalston, and Blair, whose furious fits were fatal to the lives of other people.

Lord *Dunsinnan.*—The melancholy event which gave occasion to this trial, was accompanied, as appears from the verdict of the jury, with no guilt upon the part of the panel; and therefore can be the subject of no punishment; yet it was of such a nature, as renders it the indispensable duty of the court, in pronouncing judgment upon this verdict, to take such measures as may afford full security to the public against any risk of the same sort in time coming, in case, at any future period, this unfortunate gentleman, should by the visitation of heaven, be again brought into the deplorable state of becoming inconscious of what he does, and consequently not accountable for his actions. The plan which has been proposed, appears to be entirely adequate to that object, and therefore has my concurrence.

Lord *Craig* concurred with the opinions delivered, and thought the judgment, which had been suggested, well adapted to the end in view.—And, lord justice clerk having expressed himself to the same effect, the clerk of Court proceeded to write out the judgment as follows.

THE JUDGMENT.

15th of July, 1795.

The Lord Justice Clerk, and Lords Commissioners of Justiciary having considered the verdict of assize, dated and returned the 30th day of June last, in the trial of the said sir Archibald Gordon Kinloch, panel, whereby the assize, all in one voice, find it proven that the panel killed the deceased sir Francis Kinloch of Gilmerton, bart. his brother-german, in the way and manner above-mentioned in the indictment; but find it proven, that, at that time, the panel was insane and deprived of his reason. The said lords, in respect of the said verdict, find, that the said sir Archibald Gordon Kinloch, is not an object of punishment, and therefore assoilzie him *simpliciter*; but, in respect of the insanity and deprivation of reason found proven, the said lords decern and adjudge the said sir Archibald Gordon Kinloch to be carried from the bar, back to the Tolbooth of Edinburgh, therein to be detained and confined prisoner during all the days of his life; or at least, ay and until he is delivered to any friend or other person finding caution in manner aftermentioned; and the said lords grant warrant to, and ordain the magistrates of Edinburgh, and keepers of their Tolbooth, to deliver over the person of the said sir Archibald Gordon Kinloch, to such friend or other person who shall find sufficient caution and surety acted in the books of adjournal, to the satisfaction of this Court, to secure and confine him in sure and safe custody, during all the days of his life, and that under the penalty of 10,000*l.* sterling; and, in the mean time, ordain the magistrates of Edinburgh, and keepers of their Tolbooth, to receive and detain him prisoner, in terms of, and agreeable to the above sentence, as they shall be answerable on their highest peril.

ROBERT M'QUEEN, J. P. D.

This judgment having been subscribed, and read, the Prisoner retired from the bar.

CERTIFICATE OF CAUTION BEING FOUND IN TERMS OF THE JUDGMENT.

I Robert M'Queen of Braxfield, lord justice clerk, hereby certify, That Dr. William Farquharson, one of the members of the Royal College of Surgeons in the city of Edinburgh, has found sufficient caution and surety, acted in the books of Adjournal of the High Court of Justiciary, That he shall secure and confine sir Archibald Gordon Kinloch of Gilmerton, now prisoner in the Tolbooth of Edinburgh, in sure and safe custody, during all the days of his life, in terms of, and conform to the sentence of the said Court in all points, pronounced against him upon the 15th day

* See Hume's Com. on the Law of Scotland respecting the Description and Punishment of Crimes Vol. 1, p. 36, 37.

of July current. Witness my hand, this 17th day of July, 1795.

ROBERT M'QUEEN.

[In consequence of this certificate, sir Archibald was removed from prison on Friday the 17th of July, 1795.]

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609. Proceedings on the Trial of HENRY REDHEAD, otherwise HENRY YORKE, Gentleman, for a Conspiracy. Tried at the Assizes holden at York before the Honourable Sir Giles Rooke, knt. one of the Justices of his Majesty's Court of Common Pleas, July 23: 35 GEORGE III. A. D. 1795.*

The Bill of Indictment was found by the Grand Jury for the Lent Assizes, 1795, of which the following is a list:

Sir R. D. Hildyard, of Winestead, bt. Foreman.
Richard Henry Beaumont, of Whitley
Humphrey Osbaldeston, of Hunmanby
Edward Constable, of Burton-Constable
John Dalton, of Sleningford
Walter Fawkes, of Farnley
Robert Dennison, of Kilnwick
Bryan Cooke, of Owston
Thomas Grimston, of Grimston
Henry Grimstone, of Sunderlandwick
Robert Athorpe Athorpe, of Dennington
Thomas Norcliffe Dalton, of York
Edward Wilkinson, of Potterton Lodge
William Marwood, of Busby
Edward Topham, of Wold Cottage
Robert Carlisle Broadley, of Ferraby
Hewley John Baines, of Bell-Hall
Gilbert Crompton, of York
William Richardson, of Fulford
Charles Mortimer, of Burton Grange
Thomas Horton, of Holroyd
Robert Harvey, of Farnhain
Tatton Sykes, of Drypool,—esqrs.

The names of the jurors returned by the sheriff were then called over.

Thomas Robinson of Kilderthorp, esq. was challenged on the part of the crown, by Mr. Law.

Mr. *Hotham.*—My lord, as counsel for Mr. York, I think it my duty to observe, that the counsel for the crown have no right to object to a juror, without assigning a cause.†

Mr. *Law.*—I shall certainly assign no cause, nor say a word upon the subject.

Mr. Justice *Rooke.*—Are you serious in your objection, Mr. Hotham?

Mr. *Hotham.*—Most certainly, my lord; and I beg it may be taken notice of, that the objection was made.

Mr. *Yorke.*—If they object to a juror, without assigning a cause, I ought to be allowed the same privilege.

Mr. Justice *Rooke.*—I repel the objection.

The following gentlemen were then sworn:

SPECIAL JURORS.

Samuel F. Barlow, of Middlethorp, Foreman.
Thomas Chatterton, of Waplington
Benjamin Agar, of Stockton
William Nelson, of Brantingham,—esqrs.

TALESMEN.

Thomas Brennard, of Baildon, malster.
Richard Balderston, of Ingleton, gent.
Richard Vawser, of Market Weighton, gent.
John Brown, of Rudston, gent.
Timothy Crowther, of Gomersall, merchant.
Richard Crosby, of Whitby, gent.
Thomas Cooper, of Low Worsall, yeoman.
William Meadley, of Aldborough, yeoman.

Counsel for the Crown.—Mr. Law [afterwards lord Ellenborough and Lord Chief Justice of the Court of King's-bench]; Mr. Wood [afterwards one of the Barons of the Court of Exchequer]; Mr. Topping and Mr. Johnson.

Solicitors.——Messrs. Chamberlayne and White, Solicitors to the Board of Treasury; Mr. Dealtry, Crown Office; Mr. Brookfield, Sheffield.

Counsel for the Defendant.—Mr. Hotham.

Solicitor.—Mr. Skepper, York.

Mr. *Johnson* opened the Indictment, which is as follows:

INDICTMENT.

Yorkshire, to wit. THE jurors for our lord the king, upon their oath present, that Henry Redhead, late of Sheffield, in the county of York, gentleman, otherwise called Henry Yorke, late of Sheffield, in the county of York, gentleman, Joseph Gales, late of the same place, printer, and Richard Davison,

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* Taken in short-hand by Ramsay, and published by the defendant. Many observations on these proceedings were published in notes to the original edition of the trial by the defendant. Such of the notes as merely contained aspersions on the conduct of other persons, I have of course omitted.

† See p. 22 of this Volume.

late of the same place, labourer, being malicious, seditious, and ill-disposed persons, and being greatly disaffected to our said lord the king, and to the government of this realm as by law established and maliciously and seditiously contriving and intending to break and disturb the peace and tranquillity of this realm, on the seventh day of April, in the thirty-fourth year of the reign of our sovereign lord George the 3rd, now king of Great Britain, and so forth, and on divers other days and times, as well before as after, with force and arms, at Sheffield aforesaid, in the county aforesaid, unlawfully, maliciously, and seditiously, did combine, conspire, and confederate with each other, and with divers other disaffected and ill-disposed subjects, whose names are to the said jurors unknown, to traduce, vilify, and defame the Common's House of Parliament, and the government of this realm, and to excite a spirit of discontent, disaffection, and sedition in the minds of the liege subjects of our said lord the king, towards and against our said lord the king, and the government of this realm; and that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators, in pursuance of the said unlawful combination and conspiracy, on the said seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the county aforesaid, did cause and procure divers subjects of our said lord the king, to a large number (to wit) the number of four thousand and more, to meet and assemble themselves together, at a certain open place called the Castle Hill, at Sheffield aforesaid, for the purpose of hearing divers scandalous, seditious, and inflammatory speeches, resolutions, and writings of, and concerning the Commons House of Parliament, and the government of this realm, proposed, uttered, published, and read to the said subjects at such assembly, and did then and there, at the said assembly, propose, utter, publish, and read, and cause and procure to be proposed, uttered, published, and read to the said subjects, so assembled as aforesaid, divers scandalous, seditious, and inflammatory speeches, resolutions, and writings of, and concerning the said Commons House of Parliament, and the government of this realm, traducing, vilifying, and defaming the said Commons House of Parliament, and government of this realm, and representing the people of this realm to be unlawfully oppressed and injured by the government thereof; and that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators, in further pursuance of the said unlawful combination and conspiracy, and in order to induce the liege subjects of our said lord the king, to think and believe that the said Commons House of Parliament were inattentive to the lawful wishes, desires, and petitions of the people of this realm, then and there (to wit) on the said seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the county aforesaid, did cause and procure a motion and proposal to be then and there made to the said subjects, so then and there assembled at the said place, called the Castle Hill as aforesaid, that a petition should be presented to the House of Commons (meaning the said Commons House of Parliament) for a reform in the representation of the people in parliament, with intent that the said motion and proposal should be then and there rejected by the said subjects, so then and there assembled as aforesaid; and which said motion and proposal, by the contrivance and procurement of them, the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators, was then and there so rejected accordingly: And that the said Henry Redhead, otherwise Henry Yorke, in further pursuance of the said unlawful combination and conspiracy, then and there (to wit) on the same seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the county of York aforesaid, did, with a loud voice, say, publish, and utter, to and in the presence and hearing of the said subjects, so then and there assembled at the said place, called the Castle Hill as aforesaid, divers other seditious, malicious, and inflammatory matters and things, of and concerning the said Commons House of parliament, and the government of this realm; and among other things as follows (that is to say) Fellow-citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will for ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice (meaning of injustice in this country, and meaning and insinuating thereby that injustice was practised in this country by the government thereof). I trust my countrymen (meaning the people of this country) are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial, not a melioration of these enormous abuses (meaning abuses in this country) which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses (meaning of corruptions and abuses in this country), and a restitution of the original rights of human nature. And afterwards as follows (that is to say), the governments of Europe (meaning among others the government of this country) present no delectable symmetry to the contemplation of the philosopher—no enjoyment to the satisfaction of the citizen. A vast deformed and cheerless structure, the frightful abortion of haste and usurpation, presents to the eye of the beholder no systematic arrangement, no harmonious organization of society. Chance, haste,

faction, tyranny, rebellion, massacre, and the lust inclement action of human passions, have begotten them. Utility never has been the end of their institution, but partial interest has been its fruit. Such abominable and absurd forms, such jarring and dissonant principles, which chance has scattered over the earth, cry aloud for something more natural, more pure, and more calculated to promote the happiness of mankind. And afterwards as follows, that is to say, it must be granted that this experience is important, because it teaches the suffering nations (meaning this nation among others) of the present day, in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which at the same time that it buries despotism, already convulsive and agonising, in ruins, may raise up the people to the dignity and sublime grandeur of freedom (meaning and intending thereby to insinuate, and cause it to be believed, that the government of this country, among others, was a despotic government; and that the people of this country, among others, were not free). And afterwards as follows (that is to say), Citizens, I repeat my former assertion. Go on, as you hitherto have done, in the culture of reason. Disseminate throughout the whole of your country, that knowledge which is so necessary to man's happiness, and which you have yourselves acquired. Teach your children, and your countrymen, the sacred lessons of virtue, which are the foundations of all human polity. Teach them to respect themselves, and to love their country. Teach them to do unto all men, as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice; when by the incessant thunderings from the press, the meanest cottager of our country (meaning Great Britain) shall be enlightened and the sun of reason shall shine in its fullest meridian over us, (meaning the people of this country) then the commanding voice of the whole people (meaning the people of this country) shall recommend the five hundred and fifty-eight gentlemen in Saint Stephen's chapel, (meaning the members of the said Commons House of Parliament) to go about their business. And that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators, in farther pursuance of the said unlawful combination and conspiracy, on the said seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the said county, did read, utter, and publish, and cause and procure to be read, uttered, and published to and in the presence and hearing of the said *subjects so then* and there assembled, as *aforesaid, divers other* seditious, malicious, and inflammatory matters and things of and concerning the said Commons House of Parliament, and amongst other things as follows; that is to say, it is the opinion of this meeting, that the people (meaning the people of this country) ought to demand as a right, and not petition as a favour, for universal representation; therefore we will petition the House of Commons (meaning the said Commons House of Parliament) no more on this subject: and that the said Henry Redhead, otherwise Henry Yorke, in farther pursuance of the said unlawful combination and conspiracy, then and there (to wit) on the said seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the county of York aforesaid did, with a loud voice read, utter, and publish to the said subjects, so then and there assembled, at the said place called the Castle-hill, a certain libel of and concerning the said Commons House of Parliament, and the government and people of this realm, purporting and pretending to be a petition to our said lord the king, for the emancipation of the negro slaves, and containing therein, among other things, divers malicious and seditious matters and things, of and concerning the said Commons House of Parliament, and government of this realm, as follows; that is to say, wishing to be rid of the weight of oppression under which we groan, we are induced to compassionate those who groan also, and to desire an alleviation of their sufferings: on our own account, we have repeatedly petitioned the lower House of Parliament (meaning the said Commons House of Parliament) but petitioned in vain: we are weary of the practice—we are disgusted to hear the hallowed name of liberty made the sport of corrupt placemen (meaning of corrupt placemen in this country); and we are shocked to see that in the practice of legislation (meaning the practice of legislation in this country), humanity is but a name: and that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators, in farther pursuance of the said unlawful combination and conspiracy afterwards (to wit) on the tenth day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the said county of York, did print and publish, and cause and procure to be printed and published, a certain scandalous, malicious, and seditious pamphlet, of and concerning the said Commons House of Parliament, and the government of this realm, intituled, Proceedings of the Public Meeting held at Sheffield, in the open Air, on the seventh of April 1794; and also an Address to the British Nation, being an Exposition of the Motives which have determined the People of Sheffield to Petition the House of Commons no more on the Subject of Parliamentary Reform; and containing therein, amongst other things, as well the said scandalous, malicious, and seditious matters herein-before set

to have been spoken, uttered, read, and published to the said subjects so assembled at the said place called the Castle-hill, as aforesaid; as also divers other scandalous and seditious matters and things of and concerning the said Commons House of Parliament, and the government of this realm (that is to say), in one part thereof, according to the tenor and effect following (that is to say), our petition was received with the utmost indignation by the House of Commons (meaning the said Commons House of Parliament), which was no more than we expected; we knew that the homely truths we uttered would be very unwelcome guests in that House (meaning the said Commons House of Parliament); we never expected that a body, in which there were so many placemen and pensioners, would listen to the palpable facts stated in that petition, the object of which was, to root out injustice, and to curb licentiousness (meaning licentiousness) and corruption: nevertheless, as we were called upon by our countrymen to unite with them, we thought ourselves bound to comply with their wishes; and although our petition was disdainly rejected, because, not couched in language sufficientl (meaning sufficiently) polite and respectful for the five hundred and fifty-eight gentlemen who sit as the House of Commons (meaning the said Commons House of Parliament); yet believe us, fellow-citizens, we are still of opinion, that the matter it contained was not only just and proper, but we think that even the language which gave so much offence to the hon. gentlemen, was much too polite and too moderate for us! for if the House of Commons (meaning the said Commons House of Parliament) were the real representatives of the people, we certainly had a right to dictate, and not to petition, because they could be considered in no other light than as the organs of the public will; and if they refused to obey that will, they would be usurpers, and not representatives: if, on the contrary, they are not the representatives of the people, what have we to do with them? If they are not our representatives, we cannot be their constituents, and to petition those who are not our representatives, as our representatives, would be a manifest absurdity, if not an insult and mockery of ourselves: however, the petition, such as it was, being termed disrespesful, (meaning disrespectful) was thrown out by a majority of 79, there being 29 only who voted for its being received, and 108 who voted against it: such imperious treatment rather gives warning than strikes terror. The abuse of representation can never come in the place of a rule; for no legal power can be derived from injury or injustice. On this ground alone, therefore, we are justified in preserving a sullen silence in respect to the House of Commons (meaning the said Commons House of Parliament); for if grievances, abuses, complaints, and truth, are to be discarded from that House (meaning the said Commons House of Parliament) because not dressed in a gentlemen-like language, how are we, plain mechanics, ever to obtain redress, who are not gentlemen, and who are consequently ignorant of those polite and courtly expressions which are necessary to gain a hearing in that House, we are ignorant of the art of displaying truth by halves; and as we love plain dealing ourselves, we detest hypocrisy in others, and pity those who would wish us to follow their example. We said to the House of Commons (meaning the said Commons House of Parliament), we are wronged and aggrieved; will you right us, and redress our grievances, or will you not? If you will, we shall be satisfied; if you will not, we shall seek redress some other way. This is the sole question with us; and we put it, as we thought, in a most becoming style to the House of Commons (meaning the said Commons House of Parliament); but our petition being scouted, we shall trouble them no more with our coarse and unmannerly language: it will be our duty to proceed, as we have uniformly done hitherto, in enlightening the public mind; and when a complete revolution of sentiment shall take place (as will shortly be the case) in our country, we shall open our mouths in that key we think most agreeable to ourselves; and our voice, together with that of our disfranchised countrymen, will resemble perhaps the thunderings from Mount Sinai! If the members of the House of Commons (meaning the said Commons House of Parliament) be the representatives of the people, there is no cause of complaint. If it be a virtual representation, those who are virtually represented are alone competent to ascertain the conditions of the trust, and to determine whether the virtual representation answer its intended object: we have long since decided on the subject, and our verdict is —GUILTY. Those who have a right to speak in a dictatorial tone disgrace themselves by petitioning; nor can there be any propriety in petitioning a corrupt agent to remove himself, and to appoint another in his place. And in another part thereof, according to the tenor and effect following (that is to say), the constitution of Britain indeed is highly extolled, as the greatest effect of human wisdom, so is the constitution of Turkey at Constantinople; but these are prejudices, and the long tyranny of prejudice is verging to a speedy termination, in contempt of our said lord the king and his laws, to the evil example of all others, in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do farther present, that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, so being such persons as aforesaid, and so contriving and intending as aforesaid, on the seventh day of April, in the thirty-fourth year aforesaid, and on divers other days and times, as well before as after, with force and

arms, at Sheffield aforesaid, in the county aforesaid, unlawfully, maliciously, and seditiously, did again combine, conspire, and confederate with each other, and with divers other disaffected and ill-disposed subjects, whose names are to the said jurors unknown, to traduce, vilify, and defame the said Commons House of Parliament, and the government of this realm, and to excite a spirit of discontent, disaffection, and sedition in the minds of the liege subjects of our said lord the king, towards and against our said lord the king, and the government of this realm, in contempt of our said lord the king and his laws, to the evil example of all others, in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do farther present, that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, so being such persons as aforesaid, and so contriving and intending as aforesaid, on the seventh day of April, in the thirty-fourth year aforesaid, and on divers other days and times, as well before as after, with force and arms, at Sheffield aforesaid, in the county aforesaid, unlawfully, maliciously, and seditiously, did combine, conspire, and confederate with each other, and with divers other disaffected and ill-disposed subjects, whose names are to the said jurors unknown, to cause and procure divers other subjects of our said lord the king, to a large number (that is to say) to the number of four thousand and more, to meet and assemble themselves together, with intent, and in order that they the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators last mentioned, might utter, propose, publish, and read, and cause, and procure to be uttered, proposed, published, and read, to the said last mentioned subjects at such assembly, divers other scandalous, seditious, and inflammatory speeches, resolutions, and writings of and concerning the Commons House of Parliament, and the government of this realm, traducing, villifying, and defaming the said Commons House of Parliament, and government of this realm; and representing the people of this realm to be unlawfully oppressed and injured by the government thereof, and might thereby irritate and inflame the minds of the said last mentioned subjects, against the said Commons House of parliament and the government of this realm, and excite in the minds of the said last mentioned subjects a spirit of discontent, disaffection, and sedition towards and against our said lord the king, and the government of this realm; and that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, and the said other conspirators last mentioned, in pursuance of the said last mentioned combination and conspiracy, unlawfully, maliciously, and seditiously, did, on the seventh day of April, in the thirty-fourth year aforesaid, at Sheffield aforesaid, in the county aforesaid, cause and procure divers other subjects of our said lord the king, to a large number (that is to say), to the number of four thousand and more, to meet and assemble themselves together at a certain open place called the Castle-hill at Sheffield aforesaid, in the county of York aforesaid; and did then and there, at the said last mentioned assembly, propose, utter, publish, and read, and cause and procure to be proposed uttered, published, and read, to the said last mentioned subjects so assembled, as last aforesaid, divers other scandalous, seditious, and inflammatory speeches, resolutions, and writings, of and concerning the said Commons House of Parliament, and the government of this realm; traducing, villifying, and defaming the said Commons House of Parliament, and government of this realm, and representing the people of this realm to be unlawfully oppressed and injured by the government thereof; in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, upon their oath aforesaid, do farther present that the said Henry Redhead, otherwise Henry Yorke, Joseph Gales, and Richard Davison, so being such persons as aforesaid, and so contriving and intending as aforesaid, on the seventh day of April, in the thirty-fourth year aforesaid, and on divers other days and times, as well before as after, with force and arms, at Sheffield aforesaid, in the county aforesaid, did unlawfully, maliciously, and seditiously combine, conspire, and confederate with each other, and with divers other disaffected and ill-disposed subjects, whose names are to the said jurors unknown, to break and disturb the peace and tranquillity of this realm, and to rise and excite riots, commotions, and tumults therein, amongst the subjects of our said lord the king, and to incite and encourage the said subjects to furnish and provide arms and offensive weapons, for the purpose of more effectually raising and carrying on such riots, commotions, and tumults, in contempt of our said lord the king and his laws, to the evil example of all others, in the like case offending, and against the peace of our said lord the king, his crown, and dignity.

Mr. *Law*.—May it please your lordship;

Gentlemen of the Jury;—In opening to you the subject of this indictment, I will venture to assume, that you are not wholly unacquainted with the history of your own country during the last three or four years, nor wholly unapprized of the dangerous attempts that have been made, both from within and without, to undermine the government of the country, to spread disaffection and discontent among the minds of his majesty's subjects, and particularly to draw into the disrespect of his majesty's subjects, and into

that particular branch of the constitution in which we are interested, they being our representatives; I mean the third branch of the legislature, the Commons House of Parliament. Gentlemen, you are aware, no doubt, of the industrious and mischievous pains that have been taken to circulate discontent respecting that branch of the legislature; to poison the minds of his majesty's subjects respecting it; to induce them to believe that their representatives, instead of being induced by motives of duty, are instigated by the sordid motives of gain and advantage; and that every thing like an attention to public duty is wholly extinct in that body, upon whom so much of our welfare depends. Much pains have been taken to make us hold in disrespect that wholesome system of laws, and that beneficial arrangement of political and civil government, under which this country has long existed in a greater degree of happiness, both civil and religious, than any other country upon the face of the globe.

Gentlemen, you are not to be told that in 1792 and 1793, a great number of societies were disseminating poison through the kingdom, in the shape of associations and combinations, for the purpose, feignedly perhaps, I believe wholly feignedly, for effecting a reform in parliament. Among the persons very much distinguishing themselves upon that occasion, and mischievously distinguishing themselves, were the three defendants in this cause, and particularly the defendant now before you. Gentlemen, the scene of action was, the trading towns in this country; and about the close of 1792, or the beginning of 1793, a most mischievous spirit displayed itself in the actings, and counsels, and conspiracies which are the subject of this indictment, and also in the year 1794, to which period, particularly, your attention in this cause will be directed.

Gentlemen, the subject of this indictment is a conspiracy; and you will excuse me if I just lay down, under the direction of my lord, to which you will defer; and if I should lay down any thing that is not founded in the soundest principles of law, I shall receive gladly the correction of the learned judge, and you will receive the best information from him that you can receive upon the subject.—Gentlemen, in cases of conspiracy, for that is the crime charged, it is not in the nature of them, and you cannot expect to bring persons who were present at the immediate meeting where the parties immediately confer and communicate upon their designs, and where originates the purpose stated upon the record as the conspiracy of an unlawful purpose in which they were engaged; but you are obliged, as in all other cases, to infer the purpose from the act, and where you find a number of persons acting apparently in concert, whose acts tend to one common end and object, and that common end and object of their united actings is an unlawful and mischievous purpose, you infer from that community of action a unity of design, and if you find them acting jointly, or acting separately, with an intention of effecting an unlawful purpose, the law denominates that a conspiracy, which by their acting they are endeavouring to promote: if therefore I find some at one time, others at detached times, endeavouring to promote the same seditious purpose (and you cannot but infer from their constant acting towards the same object that they have a unity of design), you are then to pronounce that that unity of design, the design being unlawful, is what the law denominates a conspiracy, and then consider of the means imputed to them to effect that design, which are the most likely to carry that mischievous design into effect.

The conspiracy that they are charged with is this, a conspiracy to traduce and vilify the Commons House of Parliament, to excite disaffection towards the king and his government in the minds of his subjects, to excite riots and tumults and commotions in the realm; that is the substance of the conspiracy charged in the several counts in the indictment; for I collect now the conspiracy as it is charged in all the counts; in the different counts we charge different means used to effectuate that end, and the principal means are these, the collecting an assembly at Sheffield, where the defendant and others then resided, respecting whom, perhaps, I shall state to you shortly, and arrest here the detail of the indictment, and the evidence upon which it is founded to state to you who they are; the defendant, whose private character we know nothing of prior to his appearance there in 1792 or 1793, where he seems to have taken up his lodgings early, with a person of the name of Gales, a printer, who was a main instrument of carrying his purposes into effect, and Davison, a journeyman printer to this Gales, who have by their tumultuous conduct either been exiled, or self-exiled, have withdrawn themselves from Sheffield: these are the persons under whose banners all the mischievous measures that were taken seem to have been arrayed, and under their assistance principally carried into effect. Gentlemen, I was stating to you what the object of the indictment was, and what were the counts stated in it. The counts charged upon them are first of all a conspiracy to vilify, and traduce, and defame the Commons House of Parliament. I stated, likewise, a conspiracy to excite disaffection towards his majesty's government, and to excite riots and tumults in the country, and then I was about to state to you the means detailed in the indictment, as the means intended to carry those designs into effect. The first means stated is the calling an assembly to be held at Sheffield the 7th of April, 1794.

Gentlemen, there existed in that place, as in various parts of the kingdom, a society called the Constitutional Society; and there were other societies in other parts of the country, Corresponding Societies, and of

various other names. Here I think they called themselves (for under that title they chose to veil their wicked designs) they called themselves A Meeting of the Friends of Justice, Liberty, and Humanity. Those who were members of this society, and all others who might choose to come together, were convened by an advertisement in the Sheffield Register, a paper published by Gales, on the 4th of April, 1794, inserted in consequence of a resolution of a meeting of the 2d of April, 1794. It begins, first of all, "Public meeting in the open air;" and the very manner of convening them, indicates an intention of disturbance. The convening a multitude, which no private house could afford room for, shows that intention; and particularly when they were convened respecting a public object, particularly liable to mischief. It says, "The Friends of Justice, Liberty, and Humanity, are desired to meet at three o'clock, on Monday, the 7th April, 1794, on the Castle-hill, in Sheffield, to consider on the propriety of addressing the king, in behalf of the persecuted patriots, citizens Muir, Palmer, Skirving, Margarot, and Gerrald."*

Gentlemen, these are persons who were previously convicted by the sentence of their country, of offences which they merited, as it seemed to that country, and as it should seem giving due credit to the persons before whom they were tried. They are recited here as being persecuted patriots. I think this very advertisement is seditious in itself, and would warrant the charges in the indictment.

"PUBLIC MEETING—IN THE OPEN AIR.

"*Committee Room of the Sheffield Constitutional Society, April 2, 1794.*

"The Friends of Justice, of Liberty, and of Humanity, in the town and neighbourhood of Sheffield, are desired to meet on Monday next, at three o'clock in the afternoon, on the Castle-hill, in Sheffield, to consider upon the propriety of addressing the king, in behalf of the persecuted patriots, citizens Muir, Palmer, Skirving, Margarot, and Gerrald; also of again petitioning the House of Commons for a reform in the representation of the people; and to determine upon the propriety of petitioning the king for the total and unqualified abolition of negro slavery.

"Resolved, That the address to the king, in behalf of the persecuted patriots, which has now been read, be recommended to the consideration of the general meeting.

"Resolved, That citizen H. Yorke be requested to draw up the petition to the king, for the total and unqualified abolition of negro slavery, and that he be requested to attend to support the measure.

"WILLIAM BROOMHEAD, sec."

Under this advertisement was this tumultuous assembly, which, upon the evidence that will be given to you, amounted to several thousands. They represented the number, in one of the papers published by Gales, at about 12,000; and there is a *nota bene* at the bottom, that "it is expected that a number of friends to the above measures will attend on this occasion from distant parts of the country." So that it was really ringing a bell throughout the country, for the purpose of promoting the designs which they intended to accomplish. This advertisement produced a meeting upon the 7th of April; but, prior to that, there was a private meeting, at which a person who will be produced to you as a witness, of the name of Broomhead was present when Mr. Yorke and two or three more were present; and then with a view to traduce and degrade the House of Commons, it was agreed that a sham proposition should be made of petitioning the House of Commons for redress, upon the subject of parliamentary representation, considering that as a grievance which required immediate redress; and it was agreed that Broomhead should be the man to make that proposition, and that some others of the party should negative it, thus far endeavouring to throw a slur upon the House of Commons, that it was idle and fruitless to endeavour to obtain any thing from the House of Commons; or if not wholly fruitless, they looked upon them to be too vile to be worth their attention a single moment; and it shows how these people acted upon the minds of the unwary and the ignorant, who met in consequence of this advertisement. At this meeting, what was done I have from the authority of the defendant himself, who thought that the publication of that speech would best effectuate the objects of that meeting, and disseminate the sedition which they thought would be too narrowly confined, if confined only to the 12,000 persons who were assembled upon that occasion.

Gentlemen, there can be nothing more mischievous than calling persons together to hear inflammatory harangues; and when people have not leisure to consider the subject, may carry the unwary to measures very dangerous to the public quiet, which if they had not been so acted upon, they would never have thought of. It certainly was intended to induce them to commit the most mischievous excesses that this sort of language was held.

The first motion was to address the king in behalf of the persecuted patriots, I have already told you they were described by that name, of citizens Muir, Palmer, Margarot, Skirving, and Gerrald, who were at that moment under conviction by a court of proper jurisdiction, for offences of the highest enormity.

Gentlemen, this publication was issued into the world by Gales, who is not here, against whom we give evidence as against Mr. Yorke, who is here. It will be only in your power to convict the gentleman who is personally pre-

* See their Trials for Sedition in the 23rd Volume of this Collection.

sent, the others having fled and withdrawn themselves from the justice of their country; but that will not embarrass us in our proof, because we shall give the same proof as if they were present. Gentlemen, it is necessary that I should detail to you many particulars, and I would not employ your time in any thing unimportant to the investigation before you.

Gentlemen, after this address had been passed, which contains nothing but what is extremely mischievous, there is a part of the speech stated in the record, which, as it seems to me, contains that which will show the most mischievous purpose, on the part of the man who immediately uttered it, and of the persons who made use of him as the mouth by which they were to utter the seditious sentiments they wished to propagate. "Fellow-citizens!" [This is a part of the speech which he addressed to the people assembled.] "The day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will for ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice." They will no longer endure it! what does he mean to represent by this, but that Englishmen, energetic as their character is, had hitherto endured a religion that consisted in fanaticism and superstition? That is the obvious meaning of the paragraph. "I trust my countrymen are sick of religious and political imposture." What is that but to state to them that they had been deceived, and that they had been in the habits of religious and political imposture. "That their decisive and manly conduct will command, in an imperious tone, which will take no denial, not a melioration of these enormous abuses, which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature." Now, what is this but telling them he hoped they would not be parleying either with one branch of the legislature or the other, compromising with injustice, by which he must mean treating with the government; but that they would demand, in an imperious tone, which would take no denial, the alterations he was proposing. Gentlemen, is it fit that a multitude should be assembled, and reproached with having endured so long that which he considered as fanaticism and superstition, and religious and political imposture, and told that they are, with their own arm (for in effect it comes to that) to redress their supposed grievances, and to demand an annihilation of every thing they thought injurious to the community? Gentlemen, ought they not rather to seek a redress of grievances in the mode pointed out by the legislature, by peaceable and legal means, which cannot fail to produce their effect, when the existence of such abuses are fairly made out? "A restitution of the original rights of human nature." What that means I am at a loss to conceive; the right of human nature before man enters into political society, is the right of the savage to wander about in the woods; and when he enters into society, he surrenders up his rights, as the purchase he pays for that beneficial protection which he derives from the laws of society. This, then, is to suggest to them that kind of spirit which, if it was permitted to increase, no political government of any description could possibly subsist under the encouragement of such doctrines.

Gentlemen, I will not trouble you with all the parts of this speech; some of them have more or less malignity in them. There is a practical principle of mischief insinuated in the next paragraph, about which no man can doubt a moment what was meant to be advised by it. After stating, that all the governments of Europe presented no satisfaction to the contemplation of the philosopher, that they were all ill-constructed, and productive of abuse;—this is what he says in effect, without any exception of our own government;—he says, "It must be granted, that this experience is important, because it teaches the suffering nations of the present day in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion which, at the same time that it buries despotism, already convulsive and agonizing, in ruins, may raise up the people to the dignity and sublime grandeur of freedom." Now, gentlemen, this suggested to the people assembled, considering at what time it was uttered, considering what scenes were acting in other places, can any thing be meant by combustible ingredients, after having described all the nations of Europe as groaning under despotism, and no exception made of the government of this country, but teaching us to prepare combustible ingredients as the means of blowing up all this despotism, this outrageous despotism, as he calls it, that applies to every government in Europe? and the ingredients are those by which the subsisting governments in every country in Europe should be blown up, and produce a grand political explosion, which, at the time that it buries despotism, is to destroy the existing government, and produce happiness to mankind; which, if it is obtained, can only be done by blowing up in this way every government arranged by the political wisdom of every country in Europe, and we are to seek happiness afterwards in any form in which society is to be found. I think it is the most dangerous adventure which the mind of man can be drawn to, or which can be suggested to people, inflamed at the time, as they were, by an inflammatory harangue.

Gentlemen, it will be unnecessary for me, perhaps, to detail much more to you. I will

give you one more extract; and, considering the length of time this discussion may occupy, I should be ashamed to waste your time: I will only trouble you with another extract, which is this; he suggests to them, that the cultivation of their reason, and the improvement of the mind, would necessarily contemplate this government as that which is impossible to subsist, consistently with the state of mankind; that it was a government so absurd, that it was only to let in the daylight upon it, to see that it was totally inconsistent with all good government. He says, "When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us, then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's chapel to go about their business." Now, I believe, few who hear me are ignorant that the members of the House of Commons consist of that number, and that the place in which they sit to execute their legislative function is St. Stephen's chapel. Then what does he say here? as soon as the mists of prejudice shall have been dispersed, then that body, which only subsists under favour of prejudice, shall be discarded; when, by the incessant thunderings from the press (a little jumble of metaphor, I think), the meanest cottager of our country shall be enlightened; the first thing we shall do, when we have opened our eyes, we shall see that those persons who have been elected as members of parliament, and that this constitution, which has subsisted for ages, is a constitution perfectly incompatible with all good government, and that they will be discarded, and shut out of doors. Gentlemen, that government which in any country is held in contempt, cannot safely subsist. Does not every government under the sun take means, and must it not take means against such degrading insults? Why, in God's name, is the united dignity of the empire to be insulted in this way, to be drawn into contempt and ridicule! and what is the practical consequence that is to follow upon that ridicule thrown upon such a body? From the moment that men cease to respect, it leads them to cease to obey, and tends to riot and tumult throughout every part of the kingdom.

Gentlemen, these parts of the speech I have commented upon, I think, fairly; it will be for you to put your own comments upon them. If you agree with me, that these extracts are seditious in the highest degree; that Mr. Yorke, who uttered them, could not but have entertained a seditious purpose; that those persons who agree with him that such speeches should be made; that an assembly should be called for that purpose; that such a *sham motion* should be made; who agreed *that speeches* should be addressed to that body; and that, with a knowledge of what they contained, he and Gales actually printed them, Gales being himself the printer of this publication, can you have a doubt they meant the mischief this is calculated to produce?

Gentlemen, I will not detail to you a great deal more of this speech, in which they say it is extremely proper for them to assume a dictatorial tone of voice; that they would not disgrace themselves by petitioning; that there could be no propriety in petitioning a corrupt agent to remove himself, thus affixing the imputation of corruption to the House of Commons as a body, and that no benefit could be obtained by petitioning them, in expectation that they would make any alteration in the body of which they were members.

Gentlemen, in addition to this evidence, which I think decisive of a seditious purpose in the persons so combined, there is likewise evidence that they did not mean to confine themselves merely to speculation, but that they did wish to assist the purposes of commotion and tumult which were to be suggested and inspired by these speeches to the use of practical means of mischief, and for that purpose; though I have no doubt, gentlemen, you will be told that it was perfectly right that every man should prepare for himself a pike, for the innocent and justifiable purpose of self-defence. That we shall sift and canvas between us; but I have no doubt, that when it is weighed by you in the balance, it will be found wanting. Davison seems to have been more properly in that department; the speaking department was Mr. Yorke's, the printing department was Mr. Gales's, and the arming department seems to have been more peculiarly Davison's. The pikes will be produced to you; they are formed in a way that might administer a very effectual annoyance either to the civil magistrate, or troops, or any thing else, in case of resistance, when they should break out into a public opposition to the government of the country, when the combustible ingredients were ready to take fire, and the grand political explosion was ready to take effect.

Gentlemen, I shall not detail to you in what portions that evidence will be given to you. I will only state to you, that we have to draw it from reluctant witnesses; and you will not much wonder at that, because the only persons who can produce this evidence have borne themselves a share of the blame, and may throw an imputation upon themselves in relating that transaction. The evidence, however, with all the attempts that may be made to suppress or keep back part of it, will not come before you, with all these endeavours, so defective, but we may honestly demand at your hand that verdict of conviction which, I trust, will teach this gentleman, and all others of a similar description, that the laws of this country are not to be drawn into contempt; and that the legislature, the rule and government of this coun-

try, which has obtained for centuries, which has made us, as we are, a great nation, prosperous abroad, and happy at home, are not to be vilified and traduced, and made, as far as in their power, the objects of disrespect and disesteem, without some effort on the part of those who love peace and order, and are attached to those things, to draw down a punishment upon them commensurate to the mischiefs they meant to produce. We shall lay the evidence before you. It has been thought wise and fitting, on the part of those who are entrusted with the executive function to draw this case before the consideration of a jury of the country, not doubting of the event, not doubting but that every gentleman sitting in that box will feel the public interest and his own united upon this subject, and will, in the verdict that he gives, when the evidence is laid before him, being intrusted for that purpose with the protection of the public safety give that verdict which the protection of the public safety immediately requires, and which the convicted guilt of the party before him, immediately warrants.

Gentlemen, I will not detail any more of the evidence that is to be laid before you. I will lay it before you; and after having done so, and heard the evidence on the other side, I shall have an opportunity of addressing you again.

Mr. *Yorke*.—My lord, I should wish to be informed, whether my counsel will be permitted, as well as myself, to address the jury?

Mr. Justice *Rooke*.—You may choose whether yourself or your counsel will address the jury.

Mr. *Yorke*.—May I be permitted, when my counsel examines the witnesses, to examine them also?

Mr. Justice *Rooke*.—No.

EVIDENCE FOR THE CROWN.

*William Broomhead** sworn.—Examined by Mr. *Wood*.

Where do you live?—In the Bridge-houses, near Sheffield.

Did you live there in the years 1793 and 1794?—No.

Did you live at Sheffield in those years?—Yes.

What are you by business?—A cutler.

Were you a member of any society at Sheffield, called the Constitutional Society?—Yes.

When did you become a member of that society?—I question but it may be three or four years since; I cannot tell exactly; it was very early.

When was it instituted?—I cannot tell exactly now.

As near as you can recollect?—Perhaps three or four years; I cannot exactly recollect the time.

Do you know the defendant, Mr. Yorke?—By sight I know him.

Did he become a member of that society?—I do not recollect that he ever was a ticket member.

Had you different sorts of members?—When a person visited the society from another place, and had not a ticket delivered to him: you see I was to deliver the tickets.

You were the secretary?—Yes.

What is the meaning of tickets?—We delivered tickets to such persons as were members in the town.

Mr. Yorke had not a ticket delivered to him?—To my knowledge, he never had.

At what time did he come amongst you?—I do not exactly recollect. He might have been in Sheffield four or five weeks, more or less.

Do you recollect in what year he came to Sheffield?—I think 1794. I am not exact in my recollection as to the time of his coming.

Had he not been there before that time?—Yes.

When had he been there first?—I was not a member at that time.

But you recollect when he came at first?—I do not recollect with any exactness.

Tell us as near as you can?—I cannot say, because I am upon my oath, and would be as cautious and wary as possible.

How long before 1794?—I was not secretary of the society at that time.

When did you first see Mr. Yorke, or Mr. Redhead, or whatever you call him, at Sheffield?—The last time of his being at Sheffield, was the first time I saw him.

Did Mr. Yorke attend your society?—Yes, occasionally he did.

Did not he attend it frequently?—Yes, during the last time of his being in Sheffield he frequently did attend.

Did he attend pretty constantly?—Sometimes he did not attend; sometimes he did; he did not always attend.

But did he frequently in the year 1794 attend your meetings?—Yes, he did.

How often does your society meet?—Sometimes when meetings were appointed, and often at other times.

Had you regular meetings of the society?—There were committees that met regularly; tolerably regular.

How often might the committees meet?—Once a week regularly, I think.

Did Mr. Yorke attend your meetings regularly?—Sometimes, and sometimes not, to the best of my recollection.

Did he take any part in the management of the business of those committees?—He spoke occasionally at those meetings, and others likewise.

Do you mean that other people spoke as well as Mr. Yorke?—Yes.

Mr. Yorke was a great orator; was not he?—Yes, a pretty able orator.

* See his examination on the trial of Thomas Hardy, *ante*?, Vol. 24, p. 602, and his examination on the trial of John Horne Tooke, p. 231, of this Volume.

Perhaps the most able orator you had amongst you?—I do not doubt that at all.

What were the subjects he spoke upon?—About a reform in parliament, generally.

Where did you meet?—We met at a house called Watson's Walk.

A house appropriated for the purpose of your meeting?—Yes, a house where the meetings were held.

What was the reform that he spoke upon? Did he speak about 558 gentlemen?

Mr. *Hotham*.—I must object to questions of that sort.*

Mr. *Wood*.—What reform was it to be?—A reform in the representation of the people in parliament; that was the idea of the society in general.

And Mr. Yorke harangued you upon these subjects; did he?—Yes, occasionally.

Where was he placed when he harangued you?—He was placed in a suitable——I do not know what to call it.

Did you give it no name?—It was never christened; we never had a parson to it; it had various names.

Tell us some of the names?—Some called it a pulpit, and some a tribune, or a rostrum.

What did Mr. York call it?—I do not recollect particularly hearing him name it.

Then he got into this pulpit or tribune and addressed you?—Yes, and occasionally other persons as well as him.

Then, I suppose, yourself?—Yes, some seldom times, but very seldom.

You know Mr. Gales, I presume, the printer of the Sheffield paper?—Yes.

Was he a member of your society?—Yes.

And Davison, was he another?—I do not know that Davison was, he came from Leeds; I do not know that he ever was a member; I never wrote out a ticket for him.

Did he ever attend your meetings?—If he did it was very badly.

Look at that ticket [*showing it him*], was that written out for him?—This is not of my writing.

But, is that Davison's ticket?—Yes.

That is one of the tickets? So that he was a ticket member?—Yes.

Mr. *Yorke*.—I believe that ticket is a ticket of the Derby society, and not of the Sheffield society.

Mr. Justice *Rooke*.—Show it to the witness, and let him say what it is.

Mr. *Wood*.—Look at it, and tell us whether it is a Sheffield ticket?—I believe it is a Sheffield ticket.

Do you know where Mr. Yorke came from, or how many of those reforming societies he belonged to?—No.

Have you never heard him say how many he belonged to?—No, I never heard him say any such thing.

Do you know where he came from?—I have heard it said that he resided at Derby; *I have heard* it so said.

Mr. Gales, Mr. Davison, and Mr. Yorke were present at those meetings?—I do not recollect Mr. Davison.

Do you recollect Mr. Gales?—He used to attend.

Do you remember an advertisement in the Sheffield Register of the 4th of April, 1794, signed William Broomhead, secretary; that is you, I take it, is it not?—Yes.

By whose direction was that inserted there?—By order, I suppose, of the committee.

Who were the committee then?—I cannot recollect them all at that time, because the committees varied.

Do you know Mr. Yorke?—Yes.

Did he give any directions about it?—No; he never gave any directions in our matters, he only spoke occasionally; he could have no authority to give directions, because he was not of the committee.

But did he know of that advertisement being inserted?—I am not certain whether he did or not, or whether he was at that meeting or not.

Remember you are upon your oath?—I am upon my oath; I cannot positively say with respect to any particular meeting, unless I kept some notes.

You see that advertisement is signed by you as secretary?—Yes.

Were Mr. Yorke and Mr. Gales privy to your inserting that?—My inserting it, sir!

Did you not sign it?—Yes, but it is generally by the voice of the committee.

What committee?—A committee that met once a week.

When did they give directions for the insertion of it in the Sheffield Register?—It was an appointment before; I suppose you will see the date; it was previous shortly to the meeting.

Look at the advertisement? [*Witness* reads]: "Sheffield Constitutional Society, 2d of April, 1794."

Was it ordered to be inserted then?—Yes.

Was Mr. Yorke at that meeting?—I am inclined to believe that he was.

Was Mr. Gales there?—I believe he was.

Who drew the form of the advertisement?—It was brought to the meeting; the rough draft, perhaps, might be drawn.

Who drew it?—Perhaps it might be Mr. Gales, I cannot exactly say.

Have you any doubt in the world that it was Mr. Gales?—By the concurrence of the committee then present, I suppose, he drew it up; I would not mistake on any account, and I would not be pressed to make a mistake.

Mr. *Law*.—If you have reason to believe it, say so.

Mr. *Hotham*.—I object to the question.

Mr. Justice *Rooke*.—The question is regular, and I can see no objection at all.

Mr. *Hotham*.—It is asking a question as to his belief, without stating a single circumstance by which he believes it.

* See Vol. 24, p. 659.

Mr. Justice *Rooke.*—It is an objection that I must overrule.

Mr. *Wood.*—Do you believe Mr. Gales was not there?—No.

Have you any doubt about it?—No.

Who drew up the advertisement?—I believe there was some part of it drawn in a rough cursory way.

Was it agreed upon at that meeting?—Yes, Mr. Gales might correct it for his paper, perhaps; I do not wish to go beyond the truth.

Now, I believe, in consequence of this advertisement, there was a meeting; was there not?—Yes.

When was that meeting?—The 7th of April.

Where was that meeting?—Upon the Castle-hill.

Was Mr. Yorke at that meeting?—Yes.

Was Mr. Gales there?—Yes.

Was Davison there?—I do not recollect that I saw Davison.

But you saw Mr. Gales there?—Yes.

How many people might be assembled at that meeting?—Some thousands; I cannot tell what number.

How many people do you think were there?—There was thought to be a very large concourse of people, some thousands.

Can you make a guess how many?—There might be five or six thousand, more or less.

Perhaps more; was it?—More or less, I cannot say.

Had you had any previous meeting to consider how you were to proceed at this meeting at the Castle-hill, to regulate what was to be done at it?—Yes, we had a meeting before.

How had you agreed to proceed at that meeting before?—To petition the king for an unqualified abolition of the Slave trade.

Any thing else?—Yes, and other matters.

At that meeting, was Mr. Yorke there?—Yes.

Was Mr. Gales there?—Yes.

Was Mr. Davison there?—I do not recollect seeing Mr. Davison.

How did you agree to proceed?—It was agreed to petition the king, and a motion was to be made to petition the parliament, and that was to be negatived to make room for petitioning the King.

To petition the parliament; for what?—For a reform in the representation.

And that was to be negatived?—Yes, to open a way for the petition to the king; I looked upon it as such.

Who was it that was to make the motion?—I was to make the motion for petitioning parliament.

Was the petition to be to the House of Commons, when you say parliament?—Yes.

You were to make the motion, and it was to be negatived?—Yes, to make another in its room.

And who was to address the people upon the Castle Hill?—Mr. *Yorke, I suppose.*

Mr. Justice *Rooke.*—Was it agreed that Mr. Yorke was to address the people on the Castle Hill?—Yes, it was expected.

Was it agreed?—I heard it spoke by several persons; I did not hear him speak of it.

Mr. *Wood.*—Was he desired to do it?—I do not know.

Mr. Justice *Rooke.*—Was it uttered loud enough for Mr. Yorke to hear it, when the people told you of it?—It was expected by the people in general.

Mr. *Wood.*—How many were present at the previous meeting?—There might be ten, or a dozen, or more.

And you settled at that meeting how you were to proceed upon the Castle Hill?—Yes, we had some conversation upon it.

Now, then, let us hear how you proceeded upon the 7th of April?—You have the proceedings in a printed book.

Does that book contain a true account of the proceedings?—Yes.

Mr. *Wood.*—Look at it.

Mr. *Hotham.*—Was that printed from your copy?—No.

Mr. *Hotham.*—Then I object to it.

Mr. *Wood.*—How long before the 7th of April was it that this previous meeting was held?—Perhaps a few days; I do not exactly recollect how many.

You assembled on the Castle Hill on the 7th of April?—Yes.

What time of day was it when you went there?—I do not recollect the exact time.

In the forenoon, I suppose?—No; I rather think in the afternoon.

What time?—I do not recollect the hour.

How did you proceed when you got there?—As they are contained in one of those accounts.

But I want to hear from you how you proceeded? who was it took the pulpit or tribune?—There were three or four.

Who first opened the meeting?—I do not know whether the meeting was not opened by reading the resolves; I do not exactly recollect.

Mr. Yorke was there?—Yes.

Did he speak?—Yes.

Did he open the business?—I think not; I think, to the best of my recollection, Joseph Gales or William Camage; I am not certain.

Was the motion made that you had agreed upon?—Yes.

Who made that motion?—I made the motion for the petition to the House of Commons.

And what was done upon your making that motion?—It was negatived.

How negatived?—It was put and negatived.

Who put it?—I put it.

And who was it that negatived it?—I think either Joseph Gales or William Camage.

You think they gave the first negative?—I think so.

Did any body else negative it?—It was

negatived by the meeting when it was proposed.

Had you a pulpit or tribune carried there?—Yes.

Where was it carried from?—I do not know.

Was it newly made for the purpose?—I believe it was.

And who was it that got into it.—There were three or four.

Did you speak?—I made the motion; no more.

Did Mr. Camage make a speech?—He read something.

Mr. Yorke got into it?—Yes.

He made a pretty long speech, did not he?—Tolerable.

What might be the subject; look at this printed account; is it the same?—There are some parts that are not in it, about Alfred and the Saxon laws.

That is not inserted in the account?—It is so long since I read this pamphlet that I cannot say.

Look at that [handing him another copy of it]?—This has my direction to it.

Whom had you it from?—I received it at Mr. Gales's shop.

Were you directed to send it any where?—Yes.

Where were you to send it?—I sent a number in a box.

To some societies in London?—Yes.

How many might you send?—There was a small box.

Whom did you direct them to?—To a variety of persons; to the honourable Mr. Macleod

And here is one directed to the honourable Mr. Erskine; the honourable Mr. Wharton?—I sent a considerable number of them.

By whose order did you send them?—There was one very active person gave me a number of names; they call him John Alcock.

Did Mr. Gales give you any direction?—No.

You got them at Mr. Gales's shop?—Yes.

Mr. Gales was not with you when you wrote the direction?—No.

Did Mr. Gales say any thing to you about sending them?—No; I rather think I might receive them of a person that attended in the shop; I do not recollect that he gave me any.

Mr. Gales did not know any thing about it?—I must not say that.

You had them from his shop?—Yes, from the person in his shop.

Did you ever have any conversation with Mr. Gales about your having sent them?—I do not recollect any particular conversation with him about the matter. John Alcock gave me a number of names, and I lapped them up, and directed them according to those *names*.

Was there any order of the committee that *they should be sent*?—It is probable there was an order; I have not a doubt of there was, but not particularly as to the [illegible] who to send them to.

Was Mr. Gales one of the committee?—He was; there were some persons did not attend the committee.

Do you know who it was that wrote the account of those proceedings?—I only know from hearsay.

Did you ever hear from Mr. Yorke?—He said nothing to me upon the subject.

Did you ever hear him say whether he meant to write an account of the proceedings?—I do not recollect hearing him speak upon that head—not in any particular conversation.

Do you remember being in company with Mr. Gales and Mr. Yorke a few days after the meeting at the Castle Hill?—I do not particularly recollect any such circumstance.

Recollect what you have said before, and recollect you are now upon your oath?—Very well, sir; I am very careful; sometimes I am not.

Remember, and tell me, if you were in company with Mr. Gales and Mr. Yorke when any thing was said respecting this matter?—After being confined six months, and not read these things, I do not recollect.

Rub up your memory a little?—If I heard any thing said upon that business, it was Mr. Gales requesting Mr. Yorke to write something about it; but there was very little said; and I do not recollect Mr. Yorke saying a word in reply, or any thing about it.

You remember some application then made by Mr. Gales to Mr. Yorke?—I recollect there was a small sentence of that kind.

What was it?—Something about writing his speech.

What was to be done with it when written?—I sold a number of them that I received at Mr. Gales's.

You say Mr. Gales said something to him about writing his speech; what was to be done with it when written; was any thing said about printing it?—I believe it was with a view of having it printed; I believed it as such; but I do not exactly recollect. I did sell a parcel of them; and I must naturally suppose it; but I do not remember Mr. Gales and Mr. Yorke having any conference about it.

Mr. Gales desired Mr. Yorke to write his speech?—I believe he did.

Have you any doubt about that?—No, I cannot say I doubt about that.

What was to be done with it when written?—I sold a great number of them.

Was it to be written for the purpose of being printed?—I should suppose it was.

Have you any doubt about that?—No.

Then why hang about so much?—I wish to be careful.

What was the answer Mr. Yorke [illegible] rather think he was silent upon the [illegible] very common for people to [illegible] thing of that sort—self-praise.

Did he agree to what Mr. Gales desired?—Silence gave consent, if silence gives consent.

However afterwards it was printed?

Mr. *Hotham.*—Here is a publication, it is true, made; that publication may be made by Mr. Gales, without any thing coming from the defendant.

Mr. Justice *Rooke.*—That is a comment, and it is for you to make your observations upon it. If I am wrong, you will have your relief, you know, in another court: you have an advantage here that you would not have if I were sitting on the other side of the hall; and I wish you to bear that in mind throughout, that there is a superior court which will correct me if I am wrong.

Mr. *Hotham.*—I am well aware of that, my lord.

Mr. *Wood.*—You had a great number of those printed copies?—Yes; I received them of Mr. Gales, and sold them myself.

You have read that, I suppose?—Yes, I believe I may; but it is a long time since.

Did you read any of those which were sent?—Yes.

Does that contain a true account of the proceedings?—I cannot charge my memory with the substance of this speech.

Mr. Justice *Rooke.*—When you read it near the time of its being published, did you then think it contained a fair account?—I thought at that time that there was a variation.

Mr. *Wood.*—You thought there was something spoken by Mr. Yorke that is not inserted there?—Though there are some things I cannot specify the differences.

But the difference you mean is, that there was something omitted?—I have not a doubt but there is something there that he did not speak—I received them as the account of the proceedings, and sold them as such, and sent them to London as such.

Something he spoke was not inserted?—Yes.

And I wish to know what that was?—I cannot tell; it was a twelvemonth ago since I read it, and I have been a prisoner six months.

Is that in substance what he said?—I have not read it this twelvemonth; a great part of it, I believe, is agreeable to what he did say.

I will read then some parts, and see whether you recollect them or not.—"Fellow-citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial—not an amelioration of those enormous abuses, which would be to compromise with *injustice*; but I trust they will demand the annihilation of corruption and abuses, and the restitution of the original rights of human nature."—Do you remember that?—I cannot say with the greatest exactness, but I remember something *à-propos* to it; I believed this to be the true account when I sold them, and sent them, excepting little variations.

Mr. *Wood.*—This is a pretty remarkable passage.—"It must be granted, that this experience is important, because it teaches the suffering nations of the present day in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which, at the same time that it buries despotism, already convulsive and agonizing, in ruins, may raise up the people to the dignity and sublime grandeur of freedom."

Witness.—I do not particularly recollect that.

Nothing like it, perhaps?—I think that is rather too coarse; I think he spoke better than that.

What do you recollect about the 558 gentlemen? I suppose you can recollect that?—I think I do recollect something about it; but I cannot recollect that other passage which you last read.

Do you recollect nothing of this political explosion?—No.

But you thought it a true account then?—It was nothing to me what deviations were made.

Will you swear you did not hear it?—Yes; there may be spurious editions of men's works.

Do you mean to swear there has been any spurious edition of this?—No.

Mr. *Wood.*—Now, about these 558 gentlemen—"When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shalls hine in its fullest meridian over us"——

Mr. *Hotham.*—I ought certainly to object to this mode of examination; it is putting the evidence into the mouth of the witness.

Mr. Justice *Rooke.*—Here is a publication which, he says, is substantially true; then they read particular passages, and ask him whether these passages are substantially the same.

Mr. *Yorke.*—I presume, in the case of an examination of a witness for the crown, he should be asked what passed, and not have words put into his mouth.

Mr. Justice *Rooke.*—The principle you must bear in your mind. The witness says it is substantially what the defendant uttered. Then they ask him as to particular passages; did he utter this, and so on. These questions are regular, having got the previous matter. As to your questions that may come hereafter, I cannot say a syllable to it; but so it stands at present.

Mr. *Wood.*—What do you say to this—Then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's chapel to go about their business?"—Something to the purport, I think, I did hear.

Have you any doubt of the number?—I never heard of the number before.

Have you never heard of St. Stephen's before?—Yes.

Did you not hear it at that meeting?—I think I did.

Mr. Justice *Rooke.*—Do you mean to say you did not hear it then?—As I recollect I think I heard something to the purport.

William Broomhead cross-examined by Mr. *Hotham.*

Mr. Yorke was not a member of your society?—I never gave him a ticket, and I was secretary at that time.

I believe you attended the committee of the members of that society, Mr. Broomhead?—Yes.

Mr. Yorke was not a member of the committee?—No.

Then tell us of the agreement, and I would have you recollect yourself of the agreement on the 2nd of April, for the purpose of inserting an advertisement to call a meeting on the 9th. I ask you whether Mr. Yorke was not at that time at a distance from Sheffield?—It is possible that any man might make a mistake; Mr. Yorke did not attend always—it is a thing I cannot exactly speak to. Why should advantages be taken?—if I say he might, I cannot exactly recollect. Why should I be wanted on either side to speak more than I can recollect?

I wish you to recollect yourself now, whether Mr. Yorke was not out of Sheffield at the time when that advertisement was agreed upon?—I do not recollect that he was, I know that during several meetings before I was taken up—if I do not recollect what meeting he was absent from, why am I to be pressed in this way?

Perhaps I may refresh your memory a little; there was a meeting of the committee on the night when the advertisement came out on the 3rd of April?—I think there was.

Now I ask you, whether at that meeting a deputation was not agreed upon, by the members then present, to be sent to Mr. Yorke, to acquaint him with what they had done, and to require his attendance at the meeting?—I may be wanting in my recollection as to that circumstance: if persons are brought here that can recollect the circumstance, it will be well; but it is really painful to be pressed so much on both sides together, in London and here too. I have had enough of it in London; I am sick of this.

Did he not say he could not attend, for *they gave* him no time to prepare himself. *Do you recollect* nothing of that sort?—I do *not; I cannot* say that I recollect the circumstance, because I have in some degree endeavoured to lay aside all thoughts about it.

You do not recollect his objecting to the meeting and saying it was wrong, and that it ought not to be, because he had not time to prepare himself?—No, I cannot recollect it.

With regard to the petition, you say a petition was agreed upon, a motion was made for a petition to the House of Commons in order that it might be rejected?—Yes.

I want to know when a motion is made; it is generally seconded, is it not?—Yes.

Every motion in your meetings was seconded before it was put?—Yes.

You made the motion upon the Castle-hill for the purpose of having it negatived; was there a single person seconded it?—It was put and it was not carried.

I wish to know from you, and I am sure I only want to get the fact from you,—you say the people of the committee agree to have a motion brought forward, which motion they agree shall be negatived and rejected; you tell us that by the course of your proceedings a motion must be seconded, in order to be put; now, I ask, was that motion seconded?—I cannot recollect; however, it fell to the ground.

Did any soul in that meeting second it when you made your motion?—To the best of my recollection it was not seconded, but directly opposed; it broke its neck, and so that is enough.

Who opposed it?—You must ask somebody else; you teaze me rather now.

Was it opposed by Mr. Camage or Mr. Gales, or whom?—It was opposed by Mr. Camage, I believe.

Was he a member of the committee?—Yes.

Was Camage present at the time?—He understood it.

And yet Camage, as soon as ever it was put, opposed it?—It was on purpose that it should be opposed.

Mr. Justice *Rooke.*—You say it was made on purpose to be rejected?—It was designed to be rejected before we went.

You made it, knowing it would be rejected?—Yes, that is a fact.

Mr. *Hotham.*—You say the committee agreed upon this. I ask you if Mr. Yorke was present when that agreement took place?—I do not recollect Mr. Yorke being at that particular meeting; particular meetings I cannot recollect exactly who is there, every identical person, unless I had the notes.

Mr. Justice *Rooke.*—At the previous meeting, when the agreement was made, you swear that Mr. Yorke was there; recollect yourself?—To the best of my recollection he had not any hand in that business, but Mr. Gales, I believe, had.

Mr. *Law.*—Was he present?—Matters that one cannot recollect; it is quite painful to be pinched: he frequently was absent, and I cannot tell whether he was there or not. I tell you I won't be pinched.

Mr. *Law*.—Nobody wants to pinch you. We wish to hinder you from pinching yourself. You sent a number of pamphlets to London?—Yes, to Mr. Wharton, Mr. Sheridan, and a great number.

Mr. *Wood*.—You sent one perhaps to Thomas Hardy, the secretary of the London Corresponding Society?—Yes, I did.

Mr. *Law*.—Whom did the whole box go to, do you recollect?—To one of the secretaries I think, either Mr. Hardy or Mr. Adams, I cannot tell which.

Mr. *Law*.—Directed to citizen Hardy; was it not?

Mr. *Hotham*.—Aye, citizen Hardy, if you please; I have no objection to the word.—My learned friend has read a passage out of a book, in which it says, "Fellow Citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity." I ask you upon your oath, whether any such expression as that was made use of by Mr. Yorke in the speech he uttered?—Why, you see, to be explicit, as to exactness of words, something to the purport I have mentioned; I would not wish to swear exactly to words which I am not certain of.

Did you hear any thing of tinsel trappings?—I heard something *à-propos*.

Did you hear any thing of slinking scowling back to the cave of obscurity?—Tinsel trappings I recollect better than the other; I do not recollect the term scowling at all.

There has been another part that has been read to you, and you are asked to recollect that part about the 558 gentlemen in St. Stephen's Chapel; I repeat my former assertion, "When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us, then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's Chapel to go about their business." Now, I ask you whether the words "incessant thunderings from the press" were made use of?—If you take the whole together, certainly very good advice was given.

Whether you will take upon you to say, standing there upon your oath, that such words as "incessant thunderings" were made use of?—I cannot speak to express terms; but *à-propos*, something like that, taking the whole together.

I want to know whether you will swear, in that box, to such an expression made use of as "the commanding voice of the people?"—I will not swear wrong if I know it; I do recollect some part of that sentence; but with regard to every expression contained in it, I cannot say;—taking the whole together, there is something corresponding to what I heard; but as to swearing to any identical expressions, I am not come to do any such thing.

Do you remember any thing about "mists of prejudice." Do show how far you are a judge of the substance of a thing. Will you take upon you to say, that "the mists of prejudice" were made use of in that speech?—I will not swear to any particular expression.

Then all you mean to swear is, that this has some resemblance, but how far you cannot take upon you to say. I ask you, during that speech, whether the general tendency of that speech, which Mr. Yorke made upon the Castle-hill, was of a peaceable nature, or tending in any manner to inflame the people?—He never spoke but always to peace and order, and accordingly we have had order and peace;—nobody ever spoke to advise contrary to peace and order.

You have had no disturbance at Sheffield?—No; they cannot make us do it at Sheffield; we know better.

When Mr. Yorke had occasion to speak of the constitution, did you ever hear him say any thing against the constitution of the country, as established by King, Lords, and Commons?—Never any thing against the constitution, but for it, according to its original principles; but with regard to what is looked upon as corruption in that House respecting places and pensions, I do not know what I have heard him speak against that.

Do you know any thing of Mr. Yorke first coming among you being sent for?—No; I am a stranger to that.

But his doctrine, you say, was always peaceable, and tended to good order?—Yes, but frequently nervous.

Did he recommend peace and good order?—Nothing but peace and good order.

And you say he extolled the constitution in its original purity?—Yes.

Mr. *Wood*.—You have read this speech?—Yes, a long while since.

You consider all this speech as being advice to peace and good order?—I do not know any thing about that paper.

Mr. *Hotham*.—I will ask you one question; did you consider that speech that you heard upon the Castle-hill as tending to peace and good order, or otherwise?—All things may be known by their effects.

Did you consider that speech as a peaceable speech, and not tending in any manner to the reverse?—I did; it was never in Mr. Yorke's power, or any body else, to attempt to breed disturbances.

Did he attempt it?—No; if he had, it would not have been in his power to have done it.

But you have no idea that it was his intention?—No.

Mr. *Wood*.—You have read this printed speech?—Yes, a long while since.

That is your idea of an advice to peace and

good order?—I told you before there were deviations from the speech in that pamphlet.

From what you have read of it, do you so consider it?—There may be some deviations.

You sent copies to Mr. Hardy, to Mr. Adams, and so on; all that, then, in your idea, is an advice to people to be orderly and peaceable?—We always were orderly; the general tenor of it was—I will not say that he may not have used an expression that is not right—the general tenor of what he said tended, I know, to peace and good order.

Do you consider this pamplet as an advice to peace and good order?—There is such advice in it, I apprehend.

You consider that to be the general tendency of it?—When I said that, I spoke of the speech.

The speech as printed?—There are some small deviations, I am sure of it.

Mr. Justice *Rooke*.—Do those deviations alter the general tenor of the speech?—If I could recollect with exactness, I should be happy to speak to exactness.

Mr. Justice *Rooke*.—What did you think when you first read the pamphlet?—I am not a lawyer, my lord, I am a plain man; I do not recollect any thing particular.

Did you find fault with the pamphlet in your own mind, as being an unfair representation of Mr. Yorke's speech?—I had exceptions to some passages, but I do not so particularly recollect at present what those deviations were.

Did you think, upon the whole, it was nearly a fair representation?—Nearly so.

Did you think the speech, as published, was a speech tending to peace and good order?—He never omitted giving advice to peace and good order; I did not examine it with a nice critical eye, but read it slightly over.

You thought the speech you read had that tendency?—The people were always advised to peace and good order.

But you thought the speech uttered by the defendant had a tendency to peace and good?—Yes.

Did this publication appear to you to be such an unfair representation as to alter the tenor of it?—I cannot say.

Mr. *Law*.—We shall now read those passages from the speech which are stated in the record.

The *Clerk* reads. "Proceedings of the public meeting held at Sheffield in the open air, 2nd April, 1794; and also an address to the British nation, being an exposition of the motives which have determined the people of Sheffield to petition the House of Commons no more on the subject of parliamentary reform.

"Fellow Citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed in their native ugliness to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will for ever remain."

Mr. *Hotham*.—If your lordship admits that as the substance of the speech, extracts must not be read from it; but the whole should be read, if your lordship thinks there is evidence sufficient to admit the reading of it at all.

Mr. *Law*.—Certainly you have a right to have the whole of it read.

Mr. Justice *Rooke*.—You should have it read now, or not at all, because it will save time.

Mr. *Yorke*.—My lord, as to the saving of time, the reading of the pamphlet will occupy no more time an hour hence, than at present; I conceive it will not be so well for me to have it read now as afterwards, because I have a very respectable mass of evidence, who will give the lie direct to these passages libelled; that done, the whole may be read, in order that the jury may be apprized of the context, for there are some very good sentiments in it.

The *Clerk* goes on reading. "The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of political and religious imposture, and that their decisive and manly conduct will command in an imperious tone, which will take no denial, not a melioration of these enormous abuses which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature.

"The governments of Europe present no delectable symmetry to the contemplation of the philosopher, no enjoyment to the satisfaction of the citizen. A vast deformed and cheerless structure, the frightful abortion of haste and usurpation presents to the eye of the beholder no systematic arrangement, no harmonious organization of society. Chance, haste, faction, tyranny, rebellion, massacre, and the hot inclement action of human passions, have begotten them. Utility has never been the end of their institution, but partial interest has been its fruit. Such abominable and absurd forms, such jarring and dissonant principles, which chance has scattered over the earth, cry aloud for something more natural, more pure, and more calculated to promote the happiness of mankind.

"It must be granted, that this experience is important, because it teaches the suffering nations of the present day in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which, at the same time that it buries despotism, already convulsive, and agonizing in ruins, may raise up the people to the dignity and sublime grandeur of freedom.

"Citizens, I repeat my former exception. Go on as you have hitherto done, in the manner of reason. Disseminate throughout the whole of your country that knowledge which

is so necessary to man's happiness, and which you yourselves have acquired. Teach your children and your countrymen the sacred lessons of virtue, which are the foundations of all human polity. Teach them to respect themselves, and to love their country. Teach them to do unto all men as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice, when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us, then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's Chapel to go about their business.

"Convinced of this truth, it is the opinion of this meeting, that the people ought to demand as a right, and not petition as a favour for universal representation. That therefore we will petition the House of Commons no more on this subject.

"As we ourselves feel, we are naturally led to sympathize with those who feel also, wishing to be rid of the weight of oppression under which we groan, we are induced to compassionate those who groan also, and to desire an alleviation of their sufferings. On our own account we have repeatedly petitioned the lower House of Parliament, but petitioned in vain. We are weary of the practice. We are disgusted to hear the hallowed name of liberty made the sport of corrupt placemen; and we are shocked to see, that, in the practice of legislation, humanity is but a name. We are now petitioning not for ourselves, but for others; for those whose sorrows harrow up the feeling soul"———

Mr. *Yorke.*—The part that is now reading is not in the indictment.

Mr. *Law.*—Then it certainly shall not be read.

William Camage * sworn.—Examined by Mr. *Topping.*

You live at Sheffield?—Yes.

How long have you lived there?—About five years.

You were, I believe, a member of the Constitutional Society at Sheffield?—I was.

In that society there was also what was called a committee?—Yes, there was at one time; it might be about the beginning of 1793.

I believe you were their secretary?—I was about six months the latter end of that year, and I ceased to be secretary about the beginning of 1794 again.

Were you secretary of this society at the time you were a committee man?—No, I was not.

Were you a committee man before you were secretary, or secretary before you were a committee man?—I was a committee man before I was secretary.

Were you a committee man after you were secretary?—No.

When did you cease to be a committee man altogether?—I cannot speak to the time.

Did Broomhead succeed you as secretary?—Soon after.

Do you remember the defendant, Mr. Yorke, being at Sheffield?—Yes.

Did you see him previous to the beginning of 1794?—The first time I saw him was at one Cawthorne's, an inhabitant of Sheffield.

At what time?—Sometime in 1793, I think it was.

Was it at the beginning or latter end of 1793?—I believe about the middle of it; but it is so long back that I cannot recollect.

Did Mr. Yorke attend any of these meetings of the Constitutional Society in 1793?—I remember seeing him at a meeting at the Barrel, in Sycamore-street.

Did he attend any meeting of the society in 1794?—Yes, at the Castle-hill.

Do you remember any meetings at which he was present previous to that?—No.

Was Mr. Yorke a member of the society? I do not know that he was.

Was Gales, the printer in Sheffield, a member?—I understood he was.

You have seen him there, have not you?—Yes.

He was a committee man also, I believe?—He was.

Although Mr. Yorke was not a member, that you know of, you have seen him at the society?—Yes.

What did he do there?—Sometimes he spoke at the Barrel, in Sycamore-street.

Did he do what other persons did who were members of the society?—What is that ——paying the contribution?

Did he pay any contribution?—I do not know; he spoke in the societies.

Do you recollect this meeting at the Castle-hill?—Yes.

Had you seen Mr. Yorke and Gales together, previous to that meeting?—Yes.

Had you been with Mr. Yorke and Mr. Gales, previous to that meeting?—Yes.

Did you receive, either from Mr. Yorke or Mr. Gales any resolutions to be put at that meeting?—I received the resolutions from Mr. Gales.

Was Mr. Yorke present at that time?—He was.

What was to be done with those resolutions which were given you by Gales when Mr. Yorke was with him?—I was requested to go down to Gales's house, and I went down previous to that meeting, and received the resolves from Gales, and I was requested to read the resolves to the meeting.

Was Mr. Yorke present at that time?—He was.

* See his Examination on the Trial of Thomas Hardy, *ante*, Vol. 24, p. 589.

At what time did that meeting take place?—Near about noon, about one or two o'clock.

Was it a very numerous meeting?—Yes, there was a good deal of company.

Many thousand people, I believe?—Yes, some thousands were there.

Who acted as the chairman of that meeting?—Mr. Henry Yorke.

What sort of a situation was he placed in?—Upon an eminence, a form made for the purpose.

What did you use to call it?—At Sheffield, we called it a tribune.

Then Mr. Yorke took his place in his tribune?—Yes.

At this meeting, at which he was chairman before he put the resolutions, do you remember any motion being made by Broomhead about a petition to parliament?—I recollect something of Broomhead making a motion for petitioning parliament.

That motion was rejected, I believe?—Yes.

You have seen those resolutions, I believe since, in print?—I have heard them read in print.

I will read them to you again. "Convinced of this truth, it is the opinion of this meeting, that the people ought to demand as a right, and not petition, as a favour for universal representation?"—That is the first.

You do not mean the first in order?—No, that was one.

Mr. *Hotham.*—I submit to your lordship; he should be asked what the resolutions were, and not have them read to him.

Mr. Justice *Rooke.*—He was examined to that first.

Mr. *Topping.*—To accommodate Mr. Hotham, I will put it another way.—What was the subject of those resolutions that were given you by Mr. Gales and Mr. Yorke?

Mr. Justice *Rooke.*—You have certainly a right to put those resolutions into his hand.

Mr. *Topping.*—[Reads]. "That therefore we will petition the House of Commons no more upon this subject." Is that another of those resolutions?—Yes.

Those resolutions, so put by you, were they carried or negatived?—They were carried.

Unanimously, I take it for granted?—Nearly so.

Mr. Yorke made a speech that day, I believe?—He spoke at the Castle-hill meeting.

A pretty long speech, I believe; was it not?—Yes.

Was Gales at the meeting?—Yes.

You were at the meeting?—Yes.

And Broomhead was at the meeting?—Yes.

You saw an account of Mr. Yorke's speech soon after the meeting?—Yes, but did not read it; I was taken up soon after.

William Camage cross-examined by Mr. *Hotham.*

You were present upon the Castle-hill at the speech of Mr. Yorke?—Yes.

What was the general tendency of that speech; was it tending to peace and good order, in your conception, or for the purpose of inflaming the minds of the people?—Every part of his speech recommended peace and good order to the people, that was what I always understood to be his conduct.

Do you recollect any thing in that speech about levelling principles?—No, I do not.

You have told us that the thing in which Mr. Yorke stood was called a tribune?—We, among ourselves, gave it that name.

Did you ever hear Mr. Yorke call it so?—I do not know that I ever heard any thing of that sort from Mr. Yorke.

Did Gales, at the time that he gave you the resolutions, read them over to you in the presence of Mr. Yorke, or did he give you the resolutions and desire you to propose them?—He gave them me, and desired me to propose them, and I read them over myself before the meeting.

So that Mr. Yorke said nothing, but Gales gave you them; were they read over in the presence of Mr. Yorke?—No.

Do you know how it happened that Mr. Yorke first came among you?—I cannot speak to that subject.

Do you know any thing of the Derby Society?—Yes, I have heard tell of the Derby Society.

Did you ever send any circular letter to the Derby Society?—I heard that letters were sent, but not to my knowledge, I had no concern in the business.

What was your idea about the duration of the House of Commons before Mr. Yorke came among you?—We thought the present system of the House of Commons a great grievance as to their seven years duration.

Was, or was not, the Constitutional Society that was instituted at Sheffield, for the purpose of reforming such abuses in the House of Commons, or for what purpose was it?—For the purpose of reforming the House of Commons, and nothing else.

During the time you were a member of it, did you ever collect any design to overturn the constitution of the country?—Never.

Nor any design of bringing about their intention by force of arms or violence?—Certainly not.

Then in what way did you understand they meant it should be brought about?—By diffusing knowledge among the people.

But you never heard from any of the members of that society, nor ever thought while you were a member of it, that violence was intended towards any part of the government?—Never; if I had I should not have continued in the society.

Had you an opportunity of seeing Mr. Yorke more than once at Sheffield?—Two or three times.

Did you ever hear from Mr. Yorke in your life any expressions against the constitution of this country?—Never in my life.

Now, I ask you, whether you have not heard Mr. Yorke, in express words, commend the constitution of the country as it was originally formed?—I have heard him speak well of the constitution when reformed.

Do you mean the constitution by King, Lords, and Commons?—Yes.

Did you ever hear him say, or infer from any thing that fell from him, that he had any wish or intention that the House of Commons should be totally abolished?—No, never.

All that you understood Mr. Yorke to mean was, to bring about a reform in parliament?—Nothing more.

And that by peaceable means?—Yes.

Mr. *Topping*.—Perhaps you remember the expression about the 558 gentlemen going about their business?—I do not recollect—something of that kind was said, but I cannot specify the words.

You say this was called a tribune among yourselves, but you did not hear Mr. Yorke call it so?—Yes.

Your members when they wanted to speak always went into it?—Yes.

You do not mean to say that you abstained from calling it a tribune when he was there?—No.

Do you mean to say, that when Gales gave you the resolutions, Mr. Yorke did not look them over in your presence?—I do not know that he did—the person that brought me there will be examined, and he was present at the same time.

Remember you have been examined before, and recollect yourself—you were desired to go down to Gales's to receive these resolutions?—Yes.

You found Mr. Yorke and Mr. Gales together?—Yes.

Now, I ask you, whether Mr. Yorke looked them over or not?—To the best of my recollection now, he did not in my presence.

George Widdison * sworn.—Examined by Mr. *Johnson*.

Where do you live?—At Woodhall, within ten miles of Sheffield.

Were you at any time a member of the Constitutional Society at Sheffield?—Yes.

How long was that ago?—A year and a half back, I think.

How long were you a member?—Two or three years.

How long is it since you ceased to be a member?—About a year and a half since.

Did you ever attend any of the meetings of that society?—Several.

Where did you hold those meetings?—In different places—sometimes at one house, and sometimes at another.

Name any of the houses where your meetings were held in November 1792?—I cannot recollect, we had them at so many different places.

During the time you were a member of this society, were you appointed to any situation?—I was a delegate at one time.

For what were you a delegate?—For one of the divisions.

Do you remember at any of the meetings that you attended seeing Mr. Yorke there?—Yes, I have seen him at several—I do not know that I was a delegate at the time I saw him.

Where was the meeting held that you saw him at first?—I think the first meeting I saw him at was in Queen-street.

Was the meeting pretty numerous?—Yes, I think the room was pretty well filled—perhaps there were two or three hundred people.

Was there any chairman?—He was the only chairman.

What year was that in?—Two or three years ago, I think in 1793.

You were a hair dresser by trade, were not you?—Yes.

You were employed by Mr. Yorke as a hairdresser at Sheffield?—Yes.

You frequently dressed his hair?—Yes.

Had you any conversation with him while you were dressing his hair?—Yes, frequently.

Were you present at any meeting at the Castle-hill on the 7th of April?—I was.

Did you see Mr. Yorke there?—Yes.

Did you see Gales there?—Yes, I believe I saw Gales there too.

Was Davison there?—I cannot recollect.

Did you hear Mr. Yorke speak that day?—Yes.

Do you recollect any thing he said?—Very little.

Did you see him at any time after the speech?—Yes, I saw him after the speech.

Had you any conversation with him after the meeting?—Yes.

About his speech?—I think he asked me once how the people seemed to approve of it.

Did he say he was doing any thing about the speech himself?—He asked me what the people thought of it; and I said there were various opinions.

Had you ever any conversation with him about the writing of that speech?—I do not recollect that I had.

You do not recollect that he ever told you he was writing an account of his speech?—I cannot say particularly; it is a long time since—I cannot charge my memory particularly.

Did he or did he not, tell you that he was writing an account of his speech on the Castle-hill—recollect what you have sworn before?—I cannot recollect it.

Mr. Justice *Rooke*.—You should ask him, did he or not say he would publish his speech?—It is so long since I cannot charge my

* See his Examination on the Trial of Thomas Hardy, *ante*, Vol. 24, p. 653, and his examination on the trial of John Horne Tooke, p. 234, of this Volume.

memory with it; he told me that he was writing extracts from Mr. Locke.

Mr. Justice *Rooke*.—Did he say whether he was writing any account of his speech or not?—I cannot recollect.

Mr. *Johnson*.—Were you not examined before Mr. Ford in London?—Yes.

Do you recollect in the course, whether you did not say that Mr. Yorke told you he was writing his speech?—I cannot say.

Will you swear that you did not?—No; nor I will not swear that I did.

Mr. *Yorke*.—Were you a member of the committee when I was ever there?—No, I do not recollect that I was.

Mr. Justice *Rooke*.—You were at the meeting?—Yes.

And you dressed him afterwards?—Yes.

He asked you what people said of his speech?—Yes.

What answer did you give him?—I said there were various opinions of it; I do not recollect any more conversation about it.

Will you say upon your oath he never said any thing to you about printing?—I answered that question before, and I cannot answer it more fully.

Will you say upon your oath he never did say any thing about it?—It is so long since, I cannot charge my memory with it.

Mr. *Yorke*.—I would ask you, whether on, before, or after the 7th of April my speeches were such as tended to vilify or traduce the House of Commons?—No, I cannot say any farther than the corruption that had been introduced into it.

William George Frith sworn.—Examined by Mr. *Law*.

I believe you are a surgeon, and live at Sheffield?—Yes.

Did you go on the 7th of April 1794 to the meeting on the Castle-hill?—I did.

Did you see Mr. Yorke, who sits there, at that meeting?—I did.

Where did you see him?—I saw him at first standing by the side of a desk, on which Camage stood, reading an address to be presented to the king, concerning Muir, Palmer, Skirving, Margarot, and Gerrald, who had been convicted at Edinburgh, and sentenced to transportation.

He was standing by the side of a desk; was that what they called the tribune?—Yes.

After Camage had read that address, what part did Mr. Yorke take in the business of the day?—After that had been read, Mr. Yorke got upon this same tribune, and made a speech to the populace, who were there in considerable numbers.

A great many questions have been asked as to the tendency of his speech, what was, in your judgment, the tendency of that speech; was it in favour of good order, peace, and good government?—The first speech (for I heard two) related entirely to those people on whose account the petition was agreed to be presented to the King.

Mr. Justice *Rooke*.—I do not think we have any thing to do with that.

Mr. *Law*.—They are both in this book, my lord.

State what you can confidently, from memory, to have been the very words, as nearly as may be; if not give us the substance?—He mentioned the packing of juries; that the trial by jury was become a mere form of law; that government packed, or could pack juries as they pleased; that he himself had just returned from Lancaster, and was implicated himself in a trial there, respecting a Mr. Walker,* of Manchester: he said, the jury or the people who were to try them there, were the creatures of government, and would have passed sentence, if the perjury of the informer had not been so evident, that the vile tools of government themselves were ashamed of it; and he was ordered by the Court to be tried for perjury.

What did he say respecting petitioning parliament for a reform?—After he had made a very eloquent speech upon the first occasion, some resolutions were read by Camage from a written paper; and afterwards Broomhead ascended this same tribune, or stool, or whatever it may be called, and made a motion, that a petition be presented to parliament for a reform in the representation of the people. The words of this were repeated two or three times. After some time, no one seconding the motion, Mr. Yorke ascended the tribune. He said, he was extremely glad that that meeting was so enlightened, that not one was found to second such a motion. Indeed, if any one had done so, he said he should have opposed it; for he was convinced they might apply for eternity to parliament, and they would never have redress, or words to that effect. I do not mean to say they were the very words; and indeed he said the idea was absurd to petition a corrupt body to remove itself, and appoint another in its place.

Did you see this publication when the impression was fresh upon your memory?—Yes, in less than a fortnight after.

Did you see different accounts of the speech?—No.

Did the printed account which you saw, in substance, tally, some omissions excepted?—As far as it went, the speech that he made is principally contained in that which is called in that book "An Address to the British Nation:" in some instances, the precise words; and, in all, the sense.

Then, according to your recollection of the speeches, was the speech as uttered, or the speech as published, of the most mischievous tendency?—There are some words in the address not the same as in the speech; but Mr. Yorke's enegy, his eloquence, his action, and his manner, made a much greater impression than it could possibly do by reading.

Were the expressions of the one more dis-

* See the trial, *ante*, Vol. 23, p. 1089.

gerous than of the other?—The one was more violent than the other.

Be so good as state what parts of the speech are not in this printed account?—After the motion was made, and Mr. Yorke had ascended the chair, or the stool, he said, that they had presented a petition, the nature of which they all knew, to the House of Commons, which was disdainfully rejected; but had his advice been followed at that time, that petition, instead of being worded in the humble form of a petition, would have been couched in the manly strain of remonstrance, or to that effect.

Mr. Justice *Rooke*.—What petition was that?—A petition that had been presented from Sheffield the year before.

Mr. *Law*.—Go on, sir?—He proceeded to state, that the people were the real and true sovereigns; that the government was made for them: and that the sovereign people disgraced itself by petitioning. Indeed, he said, he was present in the lobby of the House of Commons when the petition from Sheffield was presented; and he burnt with indignation at the treatment it received. He said, that it was said by a member of that House, Windham, that the minority of the people only ought always to govern. He said, he agreed with them that they ought only to govern themselves.

Did he say who were the majority?—He said the will of the people is the supreme law: he assumed that as a principle, and he said the welfare of the people was the supreme law. He said that petition was rejected, because it was worded in too rude and coarse a manner for them. He said, as their petition had been rejected, they should trouble them no more with such language; they thought they had put it in plain language, very fit for them, as they were mechanics; that they would trouble them with it no more: he said it was their duty, as they had been enlightened themselves, it was their duty to give that information to their enemies; that the progress of truth and reason were irresistible; and he requested that they would go on, every man enlightening his neighbour; that they would instruct them in the country places round about; and when, as would shortly be the case (for nothing could stop the progress of reason), a complete revolution of sentiment had taken place, the commanding voice of the people would turn out the 558 gentlemen, in a sneering manner—turn out the 558 gentlemen in St. Stephen's chapel, and send them about their business.

Was his voice and gesture, upon that occasion, the voice and gesture of a man speaking with respect or contempt of the body of the House of Commons?—Certainly, with no degree of respect.

Was it the contrary?—Yes.

Was there any particular gesture that accompanied that about the gentlemen going about their business?—He made a sort of a half pause; he said, "turn out the 558 gentlemen in St. Stephen's chapel, and send them about their business."

Conveying to your mind the idea of a sneer?—Yes, and must have done so to every man who heard it.

Will your memory serve you to relate any other parts of this extraordinary speech; was any thing said about arms?—Yes, he said the people had a right, by the Bill of Rights, to have arms, and requested that they would arm themselves.

Have you any doubt that he stated that, and recommended to them to arm themselves?—I am quite positive of it.

Did he say any thing about Alfred?—Yes, he said it was a meeting of the nation itself, for that they had a right to assemble on Salisbury plain.

Did he say how they assembled there?—Armed.

He recommended them to provide themselves with arms?—He did; that the people of this country had a right, by the Bill of Rights, to meet armed.

Do you recollect any thing being mentioned about combustibles?—I remember his speaking about producing a grand explosion to overthrow despotism, and to establish freedom among all the nations in the world.

Do you recollect any mention of combustibles?—I do not recollect it at present; in one part of his speech he said, you behold before you, young as I am, about 22 years of age, a man who has been concerned in three revolutions already; who, though late, assisted the revolution in America; who so essentially contributed to that in Holland; who has materially assisted in that of France; and who will still continue to cause revolutions all over the world.

You were astonished that so young a gentleman had been so well employed?—I did not know his age till he said it himself.

Do you recollect any thing particular besides?—I cannot recollect the things exactly in the series in which he delivered them. He said, perhaps, for my exertions this day, in the cause of liberty, I shall be sent to the Bastile, commonly called the Castle of York, and at last, perhaps, hung up in this place; that his chains would be to him chains of gold, or precious stones, or some kind of pleasing idea, garlands of flowers, or something of that sort, an high flown expression to convey transports.

Do you remember this; a man in possession of this virtuous principle feels delight, while burning in the brazen bull of Phalaris?—I remember something of that sort; and he said he should be enrolled as a martyr of liberty.

By whose means did you get this speech?—From a person in Sheffield; I saw it about a fortnight after the speech was uttered.

We have been asked, on the other side, what was the tendency of the speech?—What

was the object of that speech as far as you could collect?—The object was that they should no longer apply to parliament, and that they were entitled to respect on account of their numbers, and that it was their indispensable duty to convey the knowledge they had received.

Was it an exhortation to peace and order?—He did not desire them to riot or any thing.

And that he expected, perhaps, that he should be conveyed to the Castle of York for what he was then uttering?—Yes; and he said there were many, perhaps, come from motives of curiosity, others from the more criminal motive of spies and informers; but I would have such to know, that I am prepared for them, that he was pretty well acquainted with the English law, that he would take care they should not take advantage of him.

Was any thing more said about the right of the sovereign people to punish?—He said they delegated their authority; that government were their creatures, and that if they abused that authority they were liable to be punished, as guilty of high treason against the majesty of the people.

There is a gentleman of the name of Taylor here, you had some conversation with shortly after that meeting?—Yes.

Mr. *Law*.—It will not be competent to me to ask as to that point.

William George Frith cross-examined by Mr. *Yorke*.

You call yourself a man of exceeding good memory?—Yes.

What are you?—A surgeon.

Then you call yourself a literary man?—Perhaps in some degree.

A scholar?—Yes.

You understand Latin?—Yes.

Being a surgeon, of course, you have read Hippocrates?—Part of it.

Galen and Paracelsus, of course: you are a very learned surgeon indeed.

Mr. Justice *Rooke*.—You cannot go into evidence of that kind.

Mr. *Yorke*.—He says he is a man of letters, and he comes here as a professed critic; I think I have a right to examine him as to his competency. You read the pamphlet a fortnight after it came out?—Yes.

Did it strike you to be a just representation of the speech I gave at the Castle-hill?—As far as it went.

You recollect, then, every part of it?—I thought, if a pretty exact copy, as far as it went.

That much was left out?—Some words were left out which I have repeated here.

But that, nevertheless, all in the printed account was delivered?—Not the precise words, but the spirit.

If I read any passage out of it, you would *recollect. Do* you recollect this? "Fellow-*citizens, the day is* at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity, there, I hope, they will ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice; I trust, my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial, not a melioration of those enormous abuses, which would be to compromise with injustice; but, I trust, they will demand the annihilation of corruption and abuses, and a restitution of the original rights of human nature?"—I recollect a good deal of the sense of it; I do not think the precise words.

Do you recollect any thing about the cave of obscurity?—I cannot say; there might be such a word.

Do you recollect tinsel trappings?—I recollect you mentioned about popery, and then brought it in with fanaticism, and that the state politicians brought it in.

Perhaps you are a Roman Catholic?—I am.

Will you undertake to say that this was the spirit of that particular passage?—I think I do recollect the sense of that particular passage.

Will you swear that?—I cannot swear it; your energy in these particular parts made such an impression upon me, and so they must upon every man; I was a little distance before you, that I could not forget.

Therefore you could not forget those peculiar expressions?—I might not at all times be giving the same attention.

How far were you off?—Ten people, perhaps, before you.

You will not swear then to this; you swear to the whole of some things, and not to others?—Such things as I recollect.

You say that I addressed the populace; you would not call a clergyman, and others there, a part of the populace?—Yes.

What do you call a populace?—An assemblage of people.

I do not understand it so: you justly say, that after this petition to the king was read, in favour of these men, that I then addressed the meeting; and you swear, that the whole substance of that speech was respecting their condemnation?—No, I did not; I said at the beginning of it, that you afterwards proceeded to a good deal of matter respecting history.

And I said that government could pack juries, degrading, in short, the civil administration of this country?—And you said, if we enjoy civil, without political liberty, it was nothing.

But that is a contradiction?—That I have nothing to do with, your contradicting yourself; I only speak to what you said.

Did it not strike you as very strange, that I should say government packed juries?

thought you might be offended and irritated a little by the proceedings at Lancaster.

Suppose any man in private company told you the government packed juries, would not you infer that that man meant to libel the administration of justice in this country?—You certainly did.

Was your idea of that in consequence of my using the word packed juries, or from any thing else in the course of the speech?—As to the packing of juries, you slurred that.

Passed it off with a flying leap?—I do not know what you mean by that.

And I said that jury was so corrupt as to have convicted us, had not the vile tools of government, which are Mr. Law, I suppose, and the other counsel for the Crown sitting opposite to me, had they not thrown up very honourably their briefs?—You said that they were the creatures of government, but that the perjury of the informer was so evident, that even the vile tools of government were ashamed of it.

Does not the idea of a perjured informer startle you a little?—No.

Who did you understand by the vile tools of government?—The persons concerned in the assizes; I suppose, the same as they are here. [Here the Court burst out in a peal of laughter.]

You do not mean then to say that Mr. Law is a vile tool of government?—You might call him so, perhaps.

You recollect, after the resolutions were read, Mr. Broomhead made a motion for a petition to the House of Commons for a reform in parliament; what was the consequence of that motion?—Nobody seconded it, and you got up, and said you were glad that that meeting was so enlightened as not to second it.

And the petition you consider as a proof of their being in darkness?—It seemed you considered that so; I did not.

I observed that I gloried in there not being one person found to second the petition?—Yes.

That application might be made to all eternity, to no purpose?—Yes.

Have you read that address to the British nation?—Yes; nearly twelve months ago.

No doubt it made a great impression upon your mind at that time?—I did not take much notice of it. The address to the British nation I conceived to be the substance of your speech, there was some one man put up his hat, contrary to the general sense of the whole meeting, and they hissed him, and you got into the chair.

How comes it, then, that as you did not take much notice of that address, you should now take upon yourself to swear in this Court, that it was the substance of my speech?—I conceived it to be so only.

Do you consider yourself a loyal man?—Yes.

Whether, as a loyal man, you ought not, conceiving it to *be a seditious speech*, to have gone before a magistrate and informed him of it?—I did not think it necessary; I saw people there who were concerned with the magistracy; I saw constables there.

And they never went to the magistrates?—Not to my knowledge.

When did it first enter into your mind to make the pretty exhibition you are now making?—It never did; I was subpœnaed here much against my inclination.

Do you know Mr. Dunn* of Lancaster, or Mr. Alexander† of the Rose tavern, Fleet-market?—I do not understand you.

You say I asserted that the people had the right of arms by the Bill of Rights; be very particular upon this point; did I at that meeting desire the people to procure arms?—You desired them to arm; you told them to get arms.

You have already sworn, that I said, "Citizens, you have a right by the Bill of Rights to arm yourselves, get arms?"—Yes.

You swear that?—I do.

Did you ever hear that the Constitutional Society at Sheffield were molested in their peaceful meetings?—Yes, after that.

You know nothing of it personally?—No.

You say I spoke of Alfred assembling the people upon Salisbury Plain armed; do you recollect what I called the assembly?—No.

Was it the michel-gemote?—I believe it was.

And what was the inference I drew from it?—For the redress of grievances, or any thing that oppressed them.

Do you recollect whether they met armed for the redress of grievances, or for a constitutional matter, or in a constitutional manner?—For the redress of grievances.

Now, being a loyal man, you must necessarily have made some inquiry, as all good men do, into the constitution of your country?—I have read some little of it.

Where, pray? in Squire, Bacon, and Coke, I suppose, in the same manner as Hippocrates, Galen, and Paracelsus in physic?—I do not recollect any particular book.

How comes it that it does not strike your mind what a michel-gemote is?—I never read the history of Alfred; I never made it my study; I know the constitution of this country is King, Lords, and Commons.

If you never read the history of Alfred how can you say you have read a little into the constitution?—I know it consists of King, Lords, and Commons.

You say I hoped something would produce a political explosion; you did not mean a gun-powder plot to blow up every thing?—It was a metaphor, an explosion of the nations to———

To cut each other's throats, or something of that kind?—Yes.

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* See the Trial of Mr. Walker, Vol. 23, pp. 1088, 1153, 1166.

† See his cross-examination on the Trial of Thomas Hardy, *ante*, Vol. 24, p. 641.

You undertake to swear that?—You said that something would produce this great explosion which would destroy this despotism, and set up liberty in its stead.

You understood me to speak of despotism in this country as well as other countries in Europe?—You mentioned the word tyrant repeatedly.

That meant the king, of course?—I do not know that you always meant so.

Will you swear that I did at any time mean so?—I will not swear that.

You undertake to swear to that particular expression, that I hoped something would produce an explosion to destroy despotism?—I will.

You will swear it before God and your country?—Yes.

"You behold before you, young as I am, only 22 years of age?"—I don't know that I said twenty-two.

It must be so, because I am but 23 now, so that at the time of the revolution in America, I must have been not 15?—I cannot say any thing about that; you said so.

Look at these gentlemen; you undertake to swear before God and your country, that I had essentially contributed to assist the revolution in America?—I did not say so; I said that you served that in America, contributed to that in Holland, materially assisted that in France, and would still continue to cause revolutions all over the world.

You undertake to swear I assisted in the revolution of America?—Yes.

Then that I had essentially contributed to assist the revolution in Holland; what revolution was that?—I do not know.

And yet you say you are a man of letters; do you ever read the newspapers?—I thought you meant the revolution that drove away the stadtholder some few years back.

Mr. Justice *Rooke*.—You are not to ask him to explain your meaning.

Mr. *Yorke*.—The next point is, that I had materially assisted in the revolution of France, and would still continue to cause revolutions all over the world; you swear that before God and your country?—Yes.

The next point is, that I said, "Perhaps, for my exertions this day in the cause of liberty, I should be sent to the Bastile, commonly called York Castle, and perhaps hung up at last, in this place; that my chains would be to me chains of gold or precious stones," or some kind of pleasing idea, garland of flowers, or something of that sort, a high-flown expression to convey transports?—You said, "Perhaps, in consequence of my exertions in the cause of liberty, I shall be sent to the Bastile, commonly called York Castle."

Then you think me a prophet?—Your prophecy has been verified.

Perhaps you will think me a fit companion for Mr. Brothers; then, that if I was hung in chains, I should be enrolled as a martyr of liberty for what I had done that day?—In consequence of that day.

You swear that?—Yes.

You swear that before God and your country?—So far, that I conceive it to be the subject of your speech.

I asked you whether, when you read it, it made an impression upon your mind?—No, no farther than it appeared to me to be the substance of what you said upon the Castle Hill.

You say that what I spoke was more violent than the account given in the printed speech?—The eloquence of your language, and energy of your manner made much more impression.

Leave out the energy and the eloquence, and was it?—No ways materially different, but what I have stated.

You swear the substance of that speech differs no way materially from what I delivered at the Castle Hill?—Except so far as I have stated.

You are quite collected, I hope?—Yes.

For it is not my intention to confuse you; I said the will of the people was the supreme law?—You said first, the welfare of the people was the supreme law, and I was glad to hear it, but you immediately followed it with the will of the people is the supreme law.

That struck you as an exceedingly seditious phrase?—Very wrong.

Perfectly inconsistent with the principles of the British constitution, and law of the country; and you considered it as an extremely seditious expression; and that therefore the house of Brunswick who sit upon the throne———

Mr. Justice *Rooke*.—Do not reason with him.

Mr. Yorke.—Now, you have sworn I said that in all the struggles and revolutions in this country, it is evident the people had made no part; that the revolution had been a struggle between the aristocracy and the throne, and that they were brought in merely to quiet the people?—Yes, and that immediately after these things were done, it was said that they were done by the will of the people; but you said that was not the case; and to show that it was not the case, and to show it was merely a struggle between the aristocracy and the monarchy, certain laws past, which militated against the liberty of your country.

When did those laws pass?—After the Revolution.

Do you speak positively that it was the Revolution of 1688?—Or the bringing in the house of Hanover.

You swear I said, in a sneering manner, that the commanding voice of the people would turn out the 558 gentlemen in St. Stephen's chapel, and send them about their business?—Yes.

Will you swear to that jury, that I made use of the words turn out the 558 gentlemen in St. Stephen's chapel, and send them about their business?—I will not swear to the words.

ticular word "turn," but you meant, and the meaning you conveyed, and must be understood by what you said, that the people, when they became enlightened, would turn them out, and send them about their business.

With a kind of half pause, a rhetorical position, and then the sending about their business came out, after a position of Mr. Garrick's perhaps?—You had a great many perhaps of Mr. Garrick's in the course of your speech.

What was the general tendency of my speech?---To inform the people that they were oppressed by the House of Commons; says you the votes for representation ought to be as general as taxation, and asked if any man there had a vote in the choice of members of parliament.

You say I did not excite them to riot and tumult?—You did not say the word riot.

But was the speech more calculated to inflame the passions, or inform the understandings of the people?---Particularly to inflame the passions of the people against the House of Commons.

I am going to put that question once more: you will swear that the speech had a tendency essentially to inflame the passions of the people against the House of Commons; there are two senses in which I may understand that; do you understand that I meant the present 558, or the body of the House of Commons, as a constituted branch of the legislature?—It is impossible for me to tell what you meant.

If you cannot tell what I meant, how dare you say my speech had a tendency particularly to inflame the passions of the people: What induced you to go to the public meeting?—Curiosity; I was following the line of my professional duty early that morning, and I heard a good deal of conversation pass about you and the meeting. I had seen it advertised; but that morning a lady in company where I was, said, if you come we must all be ready to go to the Castle Hill at two o'clock; he is to make a very eloquent speech, and a great deal more to that effect; and she said to me, doctor, you will go, won't you? Says I, I have no intention of going. Says she, he is certainly sent by heaven to be the saviour of his country; and they talk of taking him up; but if they did, many a fine house would be burnt down, and many a head laid low by morning. I know she and you have seen one another.

What do you mean by that?—I mean more intimate than is proper with a married woman.

Is she pretty?—Yes, very.

I will ask you about some circumstances that took place after the meeting; did you stay there all the time?—No; you had begun reading an extract from Locke; and just as you had finished that, and told them you would print an extract from it, and they should have it as cheap as *possible*, you went on to the Slave trade; and I went away, and then called at Cornelius Taylor's.

I wish to know if you have ever read Locke's book?—No.

And yet you understand the constitution of your country! I recommend you to read it, and you will find some information with respect to the will of the people constituting the supreme law; what did you say to Mr. Taylor?—I said I thought you was a very clever man a very able orator, and that the only principle I disliked was, that the will of the people was the supreme law as a principle.

Were you called away to deliver a woman?—Yes.

What did you say to her?—Nothing at all; the husband, instead of coming for me, he went to the Castle Hill, and was dragging you about the town, so fascinated with your speech, I suppose.

I bewitched him with my eloquence and sublime metaphors?—I do not know; he did stay however.

Did you not tell that woman that I was a man too moderate a great deal for the Sheffield people; and that you desired her to christen her child Henry Yorke?—That was at another labour before the meeting.

Why did you tell her to christen her child after me?—You are much misinformed as to that.

Will you swear you did not say so?—Yes.

Before God and your country?—Yes; this said person, who mentioned you was certainly sent by heaven to be the saviour of this country, says she, if the child is born, it shall be christened Henry Yorke Rhodes; and it was so christened.

You would not yourself, in any instance, be the means of instigating persons to a breach of the peace, nor would not subscribe to any declaration repugnant to the principles of the constitution—By the bye, did you ever steal a bottle of ink?

Mr. Justice *Rooke*.—No man is bound to answer any question that may criminate himself.

Did you not expect to have come to the other side of that court these assizes?—No.

You have committed no crime that might have brought you there?—Certainly not.

Mr. Justice *Rooke*.—That is not a proper question, Mr. Yorke, for the reason I have before given you.

Did you never assert to any person that you subscribed to every word I uttered?—No, nor to that effect: I said, excepting this principle, that the will of the people was the supreme law, I remarked only these two principles, the welfare of the people was the supreme law, and that the will of the people was the supreme law.

If you assented, as you say, to every thing I said except the principle, that the will of the people was the supreme law, how could you swear just now that it was a speech particularly calculated to inflame the passions of

the people?—I think it had that tendency.

And yet you assented to it all, with that single exception. Pray tell me whether you approved of the idea of causing revolutions all over the world?—Certainly not.

Did you not approve of it at the time?—No.

Then, how could you say to any one that you did approve the whole, that principle only excepted?—I spoke generally.

You seem to deal very much in generals; what do you say to the idea of fanaticism and superstition, deprived of their tinsel trappings, and slinking scowling away; did you approve of that?—No.

Do you approve of turning the 558 gentlemen in St. Stephen's chapel about their business?—No.

Did you approve also of the grand political explosion, and the combustible ingredients which were to bury despotism in ruins?—No, by no means.

Then, how could you declare immediately after the meeting, that you approved of all, but that one principle, respecting the will of the people being the supreme law, and now have the face to swear in this court, that you deemed it a very seditious speech?—I alluded to it generally.

Do you know Ebenezer Rhodes?—Yes.

Do you know Thomas Druly?—I may perhaps.

Perhaps your memory serves you well on some occasions; you can recollect a speech of two hours, and doubt about your acquaintances; you never told them you subscribed to every thing I said?—No.

Do you recollect any thing in the speech about the Revolution——"In order to prove that the Revolution had not corresponded with the expectations of the people, no sooner was the prince of Orange established on the throne of England, than all ideas of the ancient mode of annual parliaments were effaced, and the triennial act was passed, in the very face of that Revolution, and in direct contradiction to its principles."—Yes, the triennial act.

Was that the thing you alluded to as a violation of the principles upon which the house of Brunswick were seated upon the throne?—It was so.

Mr. *Law*.—It shows how correct his memory is.

Mr. *Yorke*.—The most so of any man I ever saw or heard of.

John Gillot sworn.—Examined by Mr. *Wood*.

You are a merchant in Sheffield?—Yes.

Were you at the meeting upon the Castle Hill?—Yes, I was.

Did you hear Mr. Yorke's speech?—Part of it I did.

I would ask you only what was the general tendency of that speech?—I do not particularly recollect any of the passages so as to repeat them in the words he read them; nor do I recollect more than one that strikes me, which is respecting the 558 gentlemen who sit in St. Stephen's chapel might go about their business.

You do not particularly recollect any other parts of the speech?—No.

What was the general tendency of it?—I do not recollect; I went merely out of curiosity at the time.

You did hear that particular part of it?—Yes.

Did you read the printed speech afterwards?—Yes, I did.

How soon afterwards?—It is about a year ago now.

When you did read it I suppose the speech was fresh in your memory?—No, but when I did read it, according to the best of my recollection, it was similar to the speech that I heard.

Marmaduke Wreaks sworn.—Examined by Mr. *Topping*.

You live at Sheffield, I believe?—Yes.

What business are you?—A barber.

Have you been many years at Sheffield?—Yes, all my lifetime nearly.

You were there in April 1794?—Yes.

Were you at the meeting at the Castle Hill?—Yes.

Did you see Mr. Yorke there?—Yes.

Where did you see him?—In a kind of rostrum or a pulpit that he was in.

Did you hear the speech he made there?—Yes.

Do you recollect any particular passages of that speech?—Yes, I do.

Repeat such passages as you remember?—I was there about five minutes before three; Mr. Broomhead was then in the rostrum. In a few minutes after Mr. Gales and Mr. Camage came. A little after that, Mr. Broomhead desired Mr. Yorke might be called to the chair: Mr. Yorke came and received the greatest applause perhaps that you ever saw a man in your life.

A numerous meeting?—Yes.

Tell us what Mr. Yorke said?—He observed, that they were called there for the purpose of obtaining redress of their grievances; they were to address the king in behalf of the persecuted patriots, and he desired Mr. Camage to read it; he began;—I remember the first sentence of it pretty well;—he says, "Sire, We the undersigned, being firm friends of liberty and the rights of man, feel ourselves deeply affected by the sentences which have lately been passed upon citizens Muir, Palmer, Skirving, Margarot, and Gerrald;" and at the latter part he concludes, "we are plain men, and will not flatter a king; if our wishes be attended to, we are persuaded it will, in some good degree, hush the murmurs which unreasonable severity in a government never fails to excite, and it may also avert that storm which, it is but too evident, has [illegible] awfully gathering, and which may [illegible] in a moment when your majesty [illegible]

This is the address; Mr. Camage——

Now, after this address had been read, and these passages in it, what did Mr. Yorke do then?—He said, the cause for which our brethren are now suffering, was the same as was advocated in the year 1782 by Mr. Pitt, the duke of Richmond, and other men, who were placemen and pensioners at this time.

Can you tell us any other passages?—I cannot recollect any thing else of any consequence.

Tell us all?—" The day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity."

Do you remember that from his speech?—Yes; perfectly, and his manner; for he is the best speaker I ever heard in my life.

Do you recollect any other passage?—Yes, one that I set down when I came home: I call this a Billy Pitt man. " I repeat my former assertions, go on as you have hitherto done, in the culture of reason, disseminate throughout the whole of your country, that knowledge which is so necessary to man's happiness, and which you yourselves have acquired; teach your children and your countrymen the sacred lessons of virtue, which are the foundations of all human polity; teach them to respect themselves and to love their country; teach them to do unto all men as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us; then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's chapel to go about their business."

Marmaduke Wreaks cross-examined by Mr. *Hotham.*

You are a barber?—Yes.

Who taught you your lesson which you have repeated so fluently. How often have you read this book?—I have not read the whole of it.

I ask you, how many times you have repeated over to yourself and got by heart this passage, " The day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity?—Many a time, I dare say.

How often have you read it in the printed book—I do not know.

Upon your oath, a hundred times?—I have read it a great many times, perhaps; not half a hundred.

Upon your oath, have you read it a hundred times?—No.

Have you read it 80 times?—I do not know no more than you do.

Now the other sentence you have repeated is a pretty long one, " Go on as you have hitherto done, in the culture of reason, disseminate throughout the whole of your country that knowledge which is so necessary to man's happiness, and which you yourselves have acquired; teach your children and your countrymen the sacred lessons of virtue, which are the foundations of all human polity; teach them to respect themselves and to love their country; teach them to do unto all men as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us; then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's chapel to go about their business." Was that the sentence Mr. Yorke made use of in your hearing?—I will tell you what, sir, Mr. Yorke reads so different to what you do, that I cannot say.

Look at it and read it yourself?—Here is a word omitted.

What word is it that is omitted?—The word " remotest" thunderings of the press; it is exact except that word, to the best of my memory.

Now, you have told us that—slink scowling back to the cave of obscurity. Do you swear that expression was made use of by Mr. Yorke?—Yes.

This is a pretty long passage that you have read to us, is there any other passage in the whole speech so long that you can recollect and repeat?—I do not know that I can.

Is there any part of this speech?—There was a great many speeches there; it was like a play; there were four parts in it. Mr. Camage and Mr. Broomhead; but Mr. Yorke shone.

Now repeat any other equally long speech?—I cannot, perhaps.

A short speech then?—" They call us rebels, but they are the greatest rebels who wish to level us to the condition of the brute, guided by passion, untutored by reason, that they would tread upon us as we do insects in the grass."

Now look and see if you find those words in the book?—There are many omissions in that book.

I ask you to repeat any one sentence, and see whether there is another sentence that you can repeat with equal fluency. You tell us you repeated these expressions, after you had heard them from Mr. Yorke, several times?—No, I did not.

Am I to understand you that you never repeated to any person, before now, the ex-

dence you have given to those gentlemen?—I do not mean to say so; I have, to myself, repeated it.

Did you ever repeat them to any body else?—I do not know whether I have or no; I believe I have, but I do not know who to.

If I take you right, you said you repeated one of the sentences the night after?—Yes; Billy Pitt's speech.

Which was that?—"I repeat my former assertion," &c.

Then you repeated that to some person that night or the day after; did you or not?—I had not it so perfect that night, and when I awaked it was the first thing in my mouth in the morning.

Who did you repeat it to?—I told it Mr. Gales, and I told him another circumstance.

But there is no person here to whom you repeated it that night or the next morning?—No.

Joseph Eyre sworn.—Examined by Mr. *Johnson*.

You are a constable, I believe?—Yes.

You live at Sheffield?—Yes.

Were you at the meeting at the Castle-hill on the 7th of April?—Yes; I was at some distance.

Did you see Mr. Yorke there?—Yes.

Did you hear his speech?—Yes, I heard something that he said, but I did not hear a deal. I had some people about me that did not wish me to hear. I heard him speak about petitioning parliament for a reform, but it was all in vain, for they could have no redress; that is what I principally heard; they made a great noise about me, and would not suffer me to hear; several that were round me.

Do you remember on the 25th of May going to the house of one Barber?—Yes.

Did you go to Mr. Widdison's house?—Yes.

For what purpose?—Mr. Wilkinson sent for me, and I found him at Barber's, and we went from Barber's house to Mr. Widdison's.

When you got to Mr. Widdison's, did you find any thing there?—I found a parcel of pike handles.

Have you got them here?—Yes.

Produce them?—I suppose I may fetch the pikes too.

Yes; do [*produces them*].—I found four at Moody's, two at Barber's, one at Mr. Camage's, and about fourteen or fifteen handles at Widdison's, and one other handle at Moody's.

Joseph Eyre cross-examined by Mr. *Hotham*.

I believe you know that the Constitutional Society at Sheffield had been assaulted some time before this?—No; I heard some of them say something about it.

Was it not generally said, at the time, in Sheffield, that they had been attacked?—No; *nor I do not think it was generally believed neither.*

Do you recollect any people being stopped in going to the justice to get a warrant?—No.

You never heard any thing of that sort?—I cannot say.

Mr. *Widdison* called in again.—Examined by Mr. *Law*.

I believe you introduced Mr. Davison to Mr. Yorke; did not you?—Yes, I think he went with me once.

That was some time before the meeting at the Castle-hill?—Yes.

How many of these pikes did you make for Mr. Gales?—A dozen.

Handles or shafts?—The shafts.

Did Mr. Yorke know of your making them?—Yes, when I told him; I do not know that he knew it before.

Did you take one to Mr. Yorke?—Yes.

Did he look at it?—Yes.

Did he say it would do?—I believe he said he thought it would do.

Do you recollect how long it was before the meeting at the Castle-hill?—Several weeks before; I think two or three, perhaps.

How many did you make in the whole?—About a dozen and a half.

You made them by Gales's desire; you showed them to Mr. Yorke, and Mr. Yorke said they would do?—Yes.

Did Mr. Yorke say any thing to you whether you could get a good sale for them?—Yes, he said he understood Mr. Gales would have a dozen.

Did he say how many other people would want?—No, he said he thought some more would be wanted.

By other people, I suppose?—Yes.

Did he tell you by whom the heads would be made?—I do not know; I think he said he believed there was a man making some heads.

Where did he get the heads that he fitted to yours?—I forget whether the man that made them brought them or Davison.

The man that made them; that was Mr. Camage, was not it?—No, Hill was the man that made them.

Do you know how many heads Hill made?—No.

What was the whole of it when made up with the shaft, the top and the shaft? how much did the whole of it cost?—I do not know what they sold them for.

About a shilling?—More than that.

What did you get for them?—Mr. Wilkinson has never paid me for them.

What; the magistrate seized them, did he?—Yes.

Mr. *Widdison* cross-examined by Mr. *Hotham*.

You, perhaps, may know that the members of the Constitutional Society had been attacked by the Non-reformists, the people of opposite sentiments?—They had been threatened frequently.

What did you understand at the time? for what purpose these shafts and things were got? for the purpose of protecting themselves, were they not?—That the people should have them ready to defend themselves, in case they found it necessary.

Mr. *Law*.—You never complained of any attack to any magistrate?—That was not of much use.

Was there any pretence for it till after the meeting at the Castle-hill?—The time these things commenced making was the time when the armed association began.

At what time was that? will you swear there was any armed associations on foot till after the 12th of May?—As far as I can recollect, they both happened at the same time, as near as I can recollect.

Have you such a recollection, that you will swear to that? were they within a fortnight?—I cannot say.

Within three weeks or a month?—To the best of my recollection, it was about the same time, because they were going about to collect names.

*Henry Hill** sworn.—Examined by Mr. *Wood*.

You are a cutler?—Yes.

Do you know Davison?—Yes.

Had you any directions from him to make any blades for pikes?—Yes.

What directions did he give you, and when was it?—It was at the beginning of April, 1794.

How many blades were you to make?—No stated number.

How many did you make?—120, 130, or 140, I cannot justly say exactly.

Where did you carry them to when they were made?—I took them to William Camage; I did not take them all there, nor I was not very particular where I took them.

Did you carry any to Mr. Yorke?—I carried one at one time to him, but not at his desire.

What did you carry it to him for?—Davison desired me to go to Mr. Yorke, and desire that he would advance a trifle of money towards defraying the expense of these blades, till they could advance the stock themselves; but before that, I desired Davison to go himself, that I had rather he would go than me; he said they were not upon good terms of friendship, and he wished to have very little to say to him; he desired me to go, and accordingly I went; I took a blade that was not ground, only forged, so I let him look at it; he asked me what it was for, and I told him it was for self-defence, in case we should be attacked by any unlawful power.

That was what you said to him; what did he say?—He said self-preservation was certainly necessary, we had certainly a right to defend ourselves, or something to that purport; we told him we had been several times threatened.

Did he tell you he thought it a proper kind of instrument?—He did not pass many encomiums upon it; he said it might do: before we could finish what I went about, a person came in, and brought intelligence of his acquittal at Lancaster, and that put an end to the conversation, so that I did not think proper to mention what I went about.

Who paid you for these things?—Davison.

Did you never receive any money of any body else for them?—No, never.

Did Davison show you any letters that he had written to London and to Norwich?—Yes.

Look at that; was that the letter?—I cannot read it, but if you will read it to me, I can tell you.

Mr. *Hotham*.—I must object to any expression in that letter being read.

Mr. *Camage* called in again.—Examined by Mr. *Wood*.

You are acquainted with the hand-writing of Davison, and tell us if you believe that to be his hand-writing?—I believe it is.

[Mr. Wood reads the letter.]

"Fellow-citizens, the barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive against any attack they may command their newly-armed minions to make upon us. A plan has been hit upon; and, if encouraged sufficiently, will no doubt have the effect of furnishing a quantity of pikes to the patriots, great enough to make them formidable. The blades are made of steel, tempered and polished after an approved form. They may be fixed into any shafts, but fir ones are recommended, of the girth of the accompanying hoops at the top end, and about an inch more at the bottom. The blades and hoops, more than which cannot be properly sent to any great distance, will be charged one shilling. Money to be sent with the order. As the institution is in its infancy, immediate encouragement is necessary.

Struck through in the original. "Orders may be sent to the Secretary of the Sheffield Constitutional Society.

(Signed) RICHARD DAVISON.

"To prevent suspicion, direct to Mr. Robert Moody, junior, Sheffield.

(To Hill.)—Do you recollect that?—Something to that purport; I cannot swear to every word, but something to that purport.

There was one inclosed in it, did he read that to you?—No, he did not.

(To Camage.)—Look at that; do you believe that to be his hand-writing?—I cannot speak to it; I saw it before the privy council in London, and I would not speak to it then.

Do you believe it to be his hand-writing?—I cannot swear to its being his hand-writing; I believe it to be like the other.

* See his examination on the trial of Thos. Hardy, *ante*, Vol. 24, p. 663.

You believe it to be his, do not you? upon your oath, whether you believe it to be his hand-writing?—Yes, I believe it is.

[The letter read by the clerk.]

Henry Hill cross-examined by Mr. *Hotham*.

You wished Mr. Davison to go himself to Mr. Yorke?—Yes.

And he told you he had rather you went, because he was not on terms with Mr. Yorke?—Yes, he desired me to go, thinking Mr. Yorke would advance some money towards those pikes.

Now, I think, if I take you right, when you went there, Mr. Yorke asked what they were for?—Yes.

Then it did not appear to you that Mr. Yorke knew of the making of such pikes?—I believe that he knew nothing at all about it.

You told him they were for self-defence; what was your reason for telling him that?—Because he asked me what we meant to do with them.

Had there been antecedent to that period of time any, and what attacks made upon any of the members of the Constitutional Society at Sheffield?—The house where I lodged had been attacked two or three times; they broke the hinges off the door once, and swore they would pull it down and burn it.

Was this before the 7th of April?—Yes.

Was the report in Sheffield that they were meant to be attacked?—A report prevailed that a number of persons were about to form a military corps.

You understood at the time you carried this pike that it was intended for self-defence?—Solely for self-defence.

And Mr. Yorke asked you if you had been ttacked?—Yes, I told him how we had been used.

Did Mr. Yorke advance any money?—No.

Had Mr. Yorke any of those pikes himself?—No, he had nothing at all to do with them.

Mr. *Wood*.—He said they would do?—He passed a little bit of a jeering compliment upon them.

I suppose you applied to a magistrate about it?—No; I believe the persons that did would not be prevented from doing that by Mr. Wilkinson, or any body else.

But why not go to a magistrate?—We could not tell how we could be redressed.

Did you not know you could be redressed by application to a magistrate?—No, because they were persons we did not know.

Who was it attacked by?—Drunken fellows in the night, they had sworn and blasphemed, while they were so hoarse they could scarcely speak.

Did you know them?—No, I wish I had.

Mr. *Hotham*.—Would you have gone to a magistrate if you had known who it was?—Yes.

to Mr. *Camage*.—You know

—Yes.

Did you go with him to Mr. Yorke's lodgings?—Yes.

You had some conversation with Mr. Yorke upon the subject of pikes?—Very little.

Do you remember Mr. Hill's giving evidence?—Yes.

Who desired him to go, you [illegible] have been examined before?—I [illegible] I do not know whether it was me or Mr. Yorke.

What time was this in the evening?—Between eight and nine o'clock, some time previous to the 7th of April.

How long before?—About a fortnight, I believe.

It was dark night, was it not?—It was dusk; he showed it to Mr. Yorke.

Was there any talk about any other pikes Hill had made?—I recollect I told you this Hill had been with Mr. Yorke.

When Hill returned with this pike which Mr. Yorke did approve of, was there any conversation between Hill and Mr. Yorke, respecting any other pikes made which he did approve of?—I do not recollect that any such conversation did pass.

Mr. *Law* to Mr. *Frith*.—Did you sign this paper as one of the members of the Sheffield Independent Volunteers?—I did not sign that paper.

Do you happen to know at what time that association was formed?—The one that I signed was worn out; but they were all alike in the printed part.

What was the date of it?—The first of May.

Had that corps any existence before that time?—No, none at all.

[Here the evidence for the prosecution closed.]

Mr. *Yorke*.—My lord, I am charged in this indictment with having conspired with two persons known, and several others unknown, to attain a certain end, in pursuance of which certain means are said to have been employed by us: I conceive in the first instance, that no effect can take place without a cause: the conspiracy has not been made out; there is not the least shadow of evidence that I had any connexion with the other defendants; and if your lordship should be of opinion that the conspiracy has not been made out, there will be no occasion for me to take up any more of the time of your lordship and the jury.

Mr. Justice *Rooke*.—In my opinion there is evidence to go to the jury.

Mr. *Yorke*.—Will your lordship permit me to retire for a few minutes, with my counsel.

Mr. Justice *Rooke*.—Certainly; but I hope you will not exceed five minutes.

Mr. *Yorke*.—My lord, I shall occupy more than that time in going to and from my rooms.

[Mr. Yorke and his counsel withdrew for a few minutes.]

Mr. Justice *Rooke*.—Now, Mr. Yorke, are you ready; have you determined whether your counsel or yourself will address the jury?

DEFENCE.

Mr. *Yorke.*—Gentlemen of the Jury! I must now request your serious attention to the defence which I mean to institute to this most extraordinary prosecution— a prosecution which I am satisfied, from all the circumstances which have begotten it, has been engendered, not for the purpose of producing order where it was wanted, or of securing quiet where it had been disturbed,—not for the sake of promoting the cause of subordination to the government, but positively carried forwards to hunt me down as a victim, and to pursue me to destruction as an individual. When I consider all the various prejudices which, during my long confinement in this place, I have laboured under— when I consider the unmerited obloquy, calumnies, and reproach cast upon me by those journals which are the daily vehicles of falsehood and imposture, I feel deep anxiety in addressing you, because it is almost impossible to remove from your minds those prejudices and impressions which you cannot but have imbibed in common with the rest of your countrymen. Indeed, I cannot hope for such a disinterest, without conceiving you to be more or less than men. Nevertheless, I request only your candid and serious attention, without insisting at all upon the cruelty of this prosecution. I request your serious attention to the observations I shall make upon the indictment, upon the opening speech of Mr. Law, the evidence adduced in support of the charge, and the testimony which I shall offer to you in order to repel it. To these may be added the observations which necessarily result from the nature of the case, and which are intimately connected with the principles of the British constitution.

Mr. Law has stated to you from the indictment, that it was my object to vilify and traduce the House of Commons, as a branch of that legislative body under which we have long lived free and happy. I fully concede to him the latter part of the proposition: with respect to the former, you alone will be the judges. He has asserted that I have endeavoured to impress on the public feeling, that every thing like public spirit was done away from that body. It will be adduced in the evidence on my behalf, that so far from traducing and vilifying that House, I have ever regarded it as the strongest palladium of our liberties—as the source of all the joys we at present feel; and if I have spoken of its deviations from the original purpose of its institution, I have uniformly attributed them to the corruptions which time, added to the flagitiousness of bad men, have induced. This will be established by evidence.

I admit, in its utmost latitude, Mr. Law's eulogium on the constitution; my exculpatory evidence will, to a man, most substantially corroborate this assertion; and they will farther prove, that in not one of my public addresses have I neglected to affirm, and to establish by reasonings, that the British constitution was the noblest that ever was recorded on the annals of human kind. I went farther. In almost every speech I took essential pains in controverting the doctrines of Thomas Paine, who denied the existence of our constitution, and which, believe me, was attended with no small degree of trouble and embarrassment. I constantly asserted, on the contrary, that we had a good constitution; and I endeavoured to show in what that constitution did consist. It is not very probable that a person, struggling to defeat the arguments of one who has been universally acknowledged its most bitter and most powerful opponent, more especially a person of my general character and conduct, would come forward, in the face of day and of men, to declare that which he did not mean.

The counsel for the prosecution have endeavoured to insinuate, that I went originally to Sheffield with no good intent; since not being an inhabitant of that place, and going there for the sole purpose of joining the Constitutional Societies, it is natural to infer, that if those societies were seditious, I must, of course, be seditious with them; that is the inference. There will be witnesses produced on my part, who would show that I came with a letter from a gentleman of the first fortune in Derby, in consequence of which I staid four or five days at Sheffield, and that I never corresponded with the society until fifteen months after, a little before the time I was arrested on a charge of high treason, and conveyed to this place I will call witnesses to prove that I went to Sheffield, not for the purpose of exciting riots, commotions, and tumults, but for the purpose of promoting that which is universally acknowledged to be indispensably necessary to the safety of the state—I mean a Parliamentary Reform.

Mr. Law has inferred, that the means employed to collect the meeting were illegal; and he has endeavoured to establish his assertion by evidence, attempting to prove me connected in a conspiracy with two men. With one of those men, it is true, I had a personal acquaintance:* with the other, I shall prove to you, by substantial evidence, I had none, nor was he ever in my company but once, which Widdison has declared to you in his examination.

Mr. Law has stated, that we three were the leading persons in this conspiracy; that Gales was to perform the part of the printer, I of the orator, and Davison to procure arms: that, in consequence of this conspiracy, we had a certain end to attain, which was, as stated in the indictment, to traduce, vilify, and defame the Commons House of Parliament, and the government of this realm: and, secondly, which is properly a consequence of the first, to excite a spirit of dis-

* Mr. Gales. Orig. Edit.

affection and discontent amongst his majesty's subjects against his majesty's person and government: that, in consequence of this, we employed certain means, which were the assembling of a public meeting. For what? for the purposes, the indictment states, of hearing divers scandalous, malicious, and seditious speeches, resolutions and writings, in direct repugnance to the constitution and government of the land. To corroborate this, he has produced, on the part of the crown, several evidences, extremely wild and incoherent in their testimony, who have endeavoured to establish, that I absolutely uttered those expressions, some of which persons, I believe, the Court are sufficiently satisfied, from the manner in which they recited them, tallying precisely with the very words as printed in the pamphlet, have come here with their lessons learnt; not at the public meeting, but from the book itself, which was not printed till three weeks after the meeting was held.

Mr. Law has said, that the meeting was illegal. To arraign the legality of the meeting—to say that men may not meet together, to consider of their rights, or discuss subjects tending to their future benefit, is, to deny the principles of the British constitution. When I come to explain those general principles, I will read you authorities from the first law writers, who, in language more haughty and more strong than I ever uttered, have declared that we are not only justified in petitioning, but in remonstrating, in the highest tone of political reprobation. He has said, that calling the meeting by public advertisement, is a proof that we meant to ring the bell of sedition, and to call the seditious in the neighbourhood together, for a purpose which he deems improper; and that the advertisement is itself seditious, and would warrant the charges in the indictment. What is that public advertisement? It states, first, that the friends of justice, liberty, and humanity, were required to attend on such a day at the Castle-hill at Sheffield; and the publicity of the circumstance is a proof that we at least supposed our measures innocent, where magistrates might have attended, where every thing was publicly transacted, and where, if there was any idea of conspiracy, we should not have held it in that way, conspiracies being always carried on, not in the face of open day, but in secrecy. And for what purpose was it called? In the first place, to address the king in behalf of men transported, not by the laws of this country, but of another; for an action now called by Mr. Law an offence of the highest enormity, an offence exactly the same as that which Mr. Pitt, the duke of Richmond, and Sir George Savile, your late representative for this county, had set them the example—the attempt to obtain a more effectual representation of the people, and to restore their right of annual parliaments. I *shall by-and-by prove to you, both by acts of parliament,* by our first constitutional writers and historians, that annual parliaments, and even general suffrage, were partly not only the spirit but the practice of the British constitution; and if, when Mr. Law comes to reply, he can controvert their doctrines, I shall sit down satisfied that I have infringed the constitution: but if I prove that equal suffrage was the spirit, if not in a considerable degree the practice in ancient times, I shall deduce this argument from it, that the present system, as it now goes on, is not the same as that from which the people derived the liberties they formerly enjoyed. I shall infer from what is affirmed by those celebrated writers on the constitution, that the measures of the present day are repugnant to it in practice, and therefore are a violation of that constitution.

Such I take it, in a great degree, were the principles by which those unfortunate men were actuated, and for which they are reduced to the level of culprits, obnoxious to society, and doomed to undergo a punishment the most cruel and vindictive enregistered on the rolls of British story. I know well, from experience, that, in the fervour of enthusiasms, men will often be impelled to greater extremes than those who, with premature deliberation, reflect upon the nature and the means of attaining their object. But even such a reflection cannot be attached to those gentlemen, although men of high talents and acknowledged virtues; whose pulses therefore were more likely to beat high for the public welfare, and whose bosoms would therefore glow with more animation in the cause of public freedom. It is sufficient for me to say, that a great body of people believed their case to be hard in the extreme, inasmuch as they viewed them sunk down into the abyss of misery, whence they were doomed to look up to their leaders, now seated upon the pinnacle of power, and rioting in the full possession of the highest offices in the state. It is sufficient that our intentions were good, and we felt ourselves justified in applying the name of persecuted patriots, to men who at least professed to love their country, and who bottomed their conduct on the precedent of the most illustrious characters of the nation. We came forward to petition the executive magistrate for mercy—mercy is a quality of the British throne, it adorns and ornaments it; it is indeed its brightest gem, and it was certainly laudable, humane, and benevolent in the people to address his majesty, more especially when his confidential servants had greatly distinguished themselves in the same cause, and had thereby mounted into his favour amid the shouts of the people. Delightful is it at all times to arrest the arm of punishment; delightful to avert the scourge of law: must we then be deemed seditious for so generous an effort! must we be deemed worthy of punishment for supplicating the executive magistrate in the cause of mercy, of which he is the source! must our law assume the aspect

of anger and harshness, when we lay our petitions at the foot of the throne, and beseech him to step in between the sentence of the law and its execution, to spare those whose honest enthusiasm, or even whose errors, have unfortunately led them to destruction!

The next circumstance which came under our consideration, was a petition to the House of Commons, the legality of which no one will doubt. The House of Commons have themselves universally agreed, that there is a great want of national representation. There is hardly any one person in it who has not been at one time or other an associator. To petition the parliament, therefore, was to acknowledge it as such; it was a peaceful mean of obtaining that, without which we thought the commonwealth could not be saved, without which we thought national grievances would accumulate, and without which we thought even national disorders might arise: but it is said this petition was brought forward for the purpose of having it overruled; the consequence of which is, that its being rejected was, to instil into the minds of the people that the House of Commons were regardless of their just petitions. I shall adduce in evidence (and the only evidence indeed whom the prosecution have been able to produce on this head is Broomhead), I shall produce a mass of respectable evidence, who will prove that I was not in the room when the resolution libelled was said by Broomhead to have been suggested; that I was at the distance of twelve miles from Sheffield at the time; who will swear that they were present, and that no such proposition was ever resolved upon, and therefore will do away that part of Broomhead's evidence, who, though I believe is an honest man, is certainly very wild and incoherent.*

The next point was, to determine upon the propriety of petitioning the king for an abolition of the Slave-trade. I shall not arrest your attention long upon this affecting subject: You remember a few years ago, when the cause of humanity was bandied from every corner of our island, to the House of Commons; and you know the result; the question was thrown out by a large majority, although the efforts of reason, of eloquence, of philosophy, of justice, were brought forward, in reprobation of that infernal traffic: all was unavailing; the House of Commons thought it better to promote the national wealth than the national honour, and thereby irritated the minds of the people, and induced them to believe, that the cause of humanity was not so much respected in that House as the cause of mercantile interest, and therefore gave great reason to feeling minds to suspect, as the indictment states, that "in the practice of legislation humanity is but a name."—Such, then, is the nature of the advertisement for the public meeting. This was our object.

The next thing to consider is, whether we departed from that object, or strictly conformed to it, in the subject-matter of the speeches used to carry it forward.

The indictment states, that I conspired with Gales and Davison to assemble a body of men, to the number of 4,000 or more, for a specific purpose, which was, to vilify and traduce the House of Commons. In support of this charge, the counsel for the prosecution have adduced several witnesses; then, without having proved that I am the author of the pamphlet (for the emperor of Germany may as well be the author of it as any man in England) they come forward, and ask these persons, did you hear such and such expressions: why, it is very natural when an account is published of a man's speech, and you take it up and read it two or three weeks afterwards, it is very natural that you should imagine you had heard particular expressions, when you really had not. I myself have heard speeches in the House of Commons, conversed with the members who made them, seen the newspapers next day, observed the great dissimilarity between their representations and their speeches delivered, and have afterwards myself been brought to believe that they were correctly given. It is a very easy thing, from a wish and desire to form the resemblance, to imagine at length that it did resemble, because we all know that the human mind, unless it is extremely checked in its career, will often go beyond the bounds of justice and truth, and will too often take that as a fact which is founded upon positive error. However, they have stated that this speech was made by me; and some of them, Frith in particular, that every thing in this book was spoken; and he has stated expressions not in this book, which are too strong certainly, not to leave an impression upon every person to whom they were uttered. I will produce exculpatory evidence, and particularly a clergyman, an elegant classical scholar, who is a member of no political society, who came for the purpose of criticising my speech, who will swear that no such speech as in the indictment, or as sworn by Frith, was delivered by me. I will adduce a mass of evidence, the character of not one of whom the blast of calumny has ever reached, whose fair reputation the viperous tongue of slander cannot sully, who will swear that the libelled passages were never uttered; and that passage respecting the 558 gentlemen in St. Stephen's chapel, will be so explained and qualified, as to leave proofs upon your mind that I was attached to the constitution of the country.

I must digress for one moment to take farther notice of Mr. Law's speech: He says, the rights of man before he enters into society are those of a savage; that he surrenders his rights upon entering into so-

* "Some time ago Broomhead fancied himself to be big with child; his miscarriage did not take place till three months after the conception." *Orig. Edit.*

ciety. I deny the position. The rights of man before he enters into society, are not known; for I believe there never existed a being not an associated one. To deduce, therefore, any metaphysical reasoning from that point, would be a mere chimera, because every analogy from human nature must be founded upon man as he is; and therefore it is obvious that Mr. Law's argument must fall to the ground. Those too often, alas! are savages who are in a state of society. It is said that man surrenders his rights. Does he surrender the rights of liberty and property? He only delegates the use of his faculties to the government for the purpose of public convenience. Utility has been stated even in this extraordinary pamphlet to be the sole basis of legislation; for what is government, what is society, what is law—but because they are useful.

The theory broached, that men surrender their natural rights by their entrance into society, is both futile and false. The natural rights of men do not even suffer a diminution by their becoming social members. But nothing can more clearly detect the fallacy of this doctrine, than the history of mankind, which proves that there never did exist actually any state antecedent to the social. The necessity of public force for the end of public protection, or, in other words, the existence of government, can be demonstrated to be coeval and co-extended with man. As, therefore, there is not a single evidence in the records of history, which furnishes the remotest ground of probability for such a theory, it is obvious, that all arguments deduced from it are chimerical, inconclusive, and false; that they tend to legitimate tyranny, to support usurpation by sophistry, and to varnish despotism by illusion.

Men do not therefore surrender their natural rights as social beings, but only adopt a different mode of enjoying them. They surrender nothing, but they delegate much. Now, delegation strictly implies in the person who delegates, a power of revocation, when the agent abuses the trust. All just government is therefore a delegation, or a combination of the particular force of each individual, for the express purpose of enjoying, with greater security, those natural rights. There is a portion of power entrusted mutually by men for protection against each other. Their object in so doing is far from a surrender; it is, on the contrary, for the direct purpose of insuring the full enjoyment of natural rights; which enjoyment can be no otherwise secured, than by intrusting into the hands of the whole society the exercise of those powers, which one individual might employ to the injury of another. This resignation of a portion of his natural sovereignty over his own actions, a man makes, merely that he may be protected from the abuse of the same dominion in other men. *But this* neither weakens nor precludes *the exertion of* natural rights. They are inseparable from the character of man, and remain in their full integrity and vigour. Not only society itself, but all the governments of the world, recognize them, and legitimate an appeal to them, in cases of self-preservation and defence, or for the protection of kindred, or property, when the ordinary institutions, laws, or power of the state, cannot instantaneously be called in to their preservation.

The delegation of these powers must be equal in all the members of the social order, because the object is to all equally the same. The result of which is, that government being the aggregation of the equal portions of the power of every individual, voluntarily entrusted for the sake of mutual convenience, or mutual abstinence from injury, its force must operate equally on all, and its influence, whether to protect or punish, must be shed equally on all, that is, without discrimination of persons. This is literally the establishment of social equality. Instead of destroying, society not only realizes, but substantiates equality. Any other theory of equality, as derived from a state of nature, is morally and physically false: for, in that state, the greatest possible inequalities, whether of skill, talent, or strength, must exist among men. In this, therefore, consists the great advantage of the social union—that it guarantees social equality, which the state of nature neither does nor can guarantee.

From these arguments it must be inferred, that society places the weak on an equal footing with the strong (a blessing which, in the state of nature, or in the condition of a savage, according to Mr. Law, man does not nor cannot enjoy). Every kind of political inequality is alike repugnant to the principles of natural right, and to the object of civil institutions; consequently is a gross violation of the social union, and ought not to be suffered for a moment. The government which authorizes it, is a downright tyranny, whatever may be the pretence. Every assumption of power beyond what each individual has entrusted as the object of mutual security, is usurpation, and ought to be instantly resisted.

Another consequence of this reasoning is, that all men retain a right to a share in their own government, because the exercise of such a right by one man, is not inconsistent with its possession by another. And for the same reason, the exercise of this right by any one man to the exclusion of another, or by any body of men to the exclusion of the rest of the society, is injury—because it establishes political inequality, and thereby destroys the express object of the social institution. Whosoever practises it, commits treason against the principles of social union.

Nothing more completely defeats this absurd theory of surrender of natural rights, than the language of the laws of all nations. Laws are prohibitory, not permissive; if they were permissive, their language would be

announce the portion of those powers men had returned to them, not the part of which they are deprived, or deprive themselves of. What the law does not forbid, a man may do with impunity: hence the law itself instructs him, that he retains rights, which no power can impair or infringe, which are not the boon of society, but the attribute of his nature. It is evident, therefore, that man does not surrender a right in entering society; he only concedes a certain power which he might abuse, and which power, being added to the aggregate body, forms government for mutual convenience.

Mr. Law has inferred, from the following expressions, in which despotism takes the lead, that I must have alluded to despotism in this country:—"It must be granted, that this experience is important, because it teaches the suffering nations of the present day, in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which is to bury despotism in ruins." I admit fully with Mr. Law, that had I used those expressions, I should have made an extremely irregular speech; but I will produce persons of great respectability who will prove to you (and the words explosion and combustible ingredients are so strong, they could not escape any man's ears); I will call men who, if such words had been used, must have remembered, who will tell you that no such expressions were ever uttered.

Mr. Law next stated, that my object, by enlightening the minds of the people and disseminating knowledge was, to produce this grand political explosion. Now, if I prove that no such idea, of the most remote kind, was expressed by me, his consequence necessarily falls to the ground. He has, rather injudiciously, I think, for a gentleman of his ability, asserted, that the House of Commons subsists under favour of prejudice; and that therefore, to disperse the mists of prejudice (another passage libelled), and to produce incessant thunderings from the press, infers an intention to destroy the constitution. He has therefore found out no other way to establish our constitution, but by favour of prejudice. Even despotism may be justified by prejudice; the constitution of Russia has prejudice for its basis, and exists by it: but I shall vindicate, as I ever have done, the constitution of this country upon other grounds, upon reason, justice, and public expediency. If ye be happy under the constitution, is it not because ye think yourselves free? Is it not because ye think ye enjoy your rights? Is it not because your property is secured to you? These are circumstances too prominent to admit of any other mode of explanation. But to say that a branch of the constitution exists upon prejudice, is to libel the constitution itself; it is offering a high insult to the dignity and character of a free people. To say it exists upon prejudice, is to say it exists upon falsehood, for falsehood is unquestionably prejudice. I agree with Mr. Law, that if you think these speeches have been proved, and if it appear that my intention was criminal—for you are to retain in your minds a due distinction between criminality of fact, and criminality of intention, the illustrious basis of British law—and if you should also think that they are not founded in truth, then you will be justified as honourable men, in consigning me to the punishment of the law. But let not a hasty consideration of the passages contained in the indictment, dispose you to stamp them with the mark of guilt, as being unfounded in truth; for let me admonish you, that truths of the most simple nature have, on their first propagation, been deemed falsehoods; and even in these times, which we call enlightened, are of difficult discovery, and admitted with reluctance. Let it be engraven in your minds, that truth is immortal; that it is marked by nature in the hearts of men, and that to deny it is to extirpate every principle of morality, and every social duty. By the ancients it has been justly represented, unrobed, in native beauty, as the daughter of heaven, and exposed, unveiled, by error; and to look at her was sufficient to be convinced, to love, to admire, and to applaud.

Mr. Law has proceeded to observe, that I represented the House of Commons to be corrupt as a body; I do not see how that inference can be drawn from the subject matter. When persons speak of the corruption of the House of Commons, they do not mean that it is corrupt as a component part of the legislature, but by the abuse of its principle, in the corruption of many of its members. It relates to the general venality, to the profuse lavishment of places and pensions among the members of that House, to those sly, deep, dark, intriguing schemes, which are formed to subvert the liberties of the people. They do not mean to say, the House of Commons is corrupt as an institution; if they did, they would be denying the utility of that which is the source of public security; they speak only of its members, and only of a part of its members; since it is universally allowed, that many of them are deservedly in the confidence of the people.

I should have conceived it necessary, in the outset of this prosecution, for Mr. Law to have proved me connected with Mr. Davison, one of the defendants; on the contrary, only one evidence, Widdison, proves me ever to have been in his company, while Hill, one of the witnesses for the Crown, on the contrary, swears that he requested Davison to come to me, who answered, that he was not upon intimate terms with me, and therefore would not come.

Such are the general observations which occur to me upon the speech of Mr. Law.

Now, let me call your minds to many cir-

cumstances which took place in our country during the last year. You will recollect, that an alarm seized every one; you will recollect, that the House of Commons, in one day, in the midst of a paroxysm of delusion, threw the liberties of the people at the foot of the throne; I mean by the suspension of the Habeas Corpus act: you will recollect, that, in consequence of that suspension, every man was unsafe in his person, every man even had reason to tremble for his life.

Mr. Justice *Rooke*.—I must check you, Mr. Yorke, when you talk of the House of Commons throwing the liberties of the people at the foot of the throne.

Mr. *Yorke*.—If your lordship had permitted me, I should have explained that idea.

Mr. Justice *Rooke*.—I sit here upon my oath, and I cannot suffer any sentiment to pass, that is at all disgraceful to that House.

Mr. *Yorke*.—It was far from my intention; I was only stating that the Habeas Corpus act was suspended, and was about to state the reason why.

Mr. Justice *Rooke*.—I have heard you with great pleasure, and am very sorry to be obliged to interrupt you.

Mr. *Yorke*.—I was stating, and I desire to qualify my expression, that the liberties of the people had been laid at the foot of the throne by the House of Commons. I desire now to be understood, that I consider the Habeas Corpus act and the trial by Jury, as the firmest bulwarks of our liberties;—certain it is, that the legislature thought the country in danger, that treason lurked abroad, that it was necessary to strengthen the arm of government, and necessary, in some degree, to weaken the liberties of the people; that is the sense in which I wish you to understand it. Danger was imagined from within, and certainly danger hovered over us from without. The Habeas Corpus act was suspended, and the generality of those persons who had signalized themselves during the last year, as friends to reform, were taken up, many of them brought to trial, and some honourably acquitted; but my case was destined to exhibit a greater degree of hardships. Men whose experience of life was far superior to mine, and from whom a more rigid account of conduct might have been expected, were restored to their liberty; but to the youngest man, just stepping forth from the threshold of infancy, the prison doors were not opened; I was to be hunted down by prosecution—my spirits attempted to be broken—to suffer a long ignominious imprisonment, and to endure it too without a trial. I listened to Mr. Law, and expected he would have told you why I was not tried at the last assizes, when my witnesses were all ready, my counsel prepared—when a great expense had been accrued—when a day was fixed for trial, under a charge of high treason, which you now see pared and melted down into this pitiful charge of a misdemeanor. I called then for trial, I could not obtain it. Magna Charta states, that justice shall not be delayed to an Englishman; but to me justice was delayed. From my professional scheme of life it was a cruel stroke—cut off from society—shut out from my friends, and all who had the power of serving me. Notwithstanding all this, when I was provided for trial, I had not the opportunity of defending myself, and am at length brought forward, with ill health and broken spirits, under another charge. Under these circumstances, therefore, I must say I feel extreme resentment for all the prejudices under which I have long laboured.—I feel for that species of prejudication, because it often happens, that innocence itself has reason to tremble, when slander and persecution have long followed it. I feel that innocence cannot be heard, but when those who are to decide are totally unprejudiced. All I have to say is, lay aside prejudice for a moment, and hear, impartially, the whole of the defence which I mean to institute; let my witnesses be examined, let their private character be sifted to the bottom; they are men who would do honour to any cause they are brought forward to support; one of them a clergyman, a scholar, who came for the purpose of criticising that speech, wished to form an acquaintance with me, dined with me on the very day of the meeting, and sifted me to see whether I was the man that I was stated to be by public report; he will tell you I was not, and I will not at all anticipate the pleasure that I am to have, and, I trust, the satisfaction that you will feel when you come to hear his testimony.

I come now to examine the evidence. Broomhead has stated to you, but not with correctness (he does not pretend to say with certainty), that I was present when this public meeting was agreed to be called, and Mr. Law will, of course, draw this inference from it in reply, that I must have been privy to the intention. I shall produce members of the committee who will prove that I was absent; that I had no knowledge whatever of their meeting; who will prove my objections to it, my positive refusal to be their chairman, and my recommendation to appoint another person, a gentleman of property in the neighbourhood.

You will observe the indictment states, that I was confederated with Davison. None of the witnesses for the prosecution have even insinuated that I had any knowledge of Davison;—how then could I have conspired with him?—It has been proved that I was only once in his company, and surely one who was conspiring would not trust his secrets with a man with whom he had no previous acquaintance, wich will also be proved by my evidence on that head.

The evidence of Widdison is respected by [illegible] Widdison states that [illegible] him to make a dozen of pikes, [illegible]

of which he did make them. What were the questions put to him by the crown?—Was Mr. Yorke privy to these pikes?—Did he know that you made them?—Good God! Is any man to be criminated because he happens to hear that two men agree to make pikes? —Did I stimulate them to arms?—No, a cloud of witnesses will be called, who will prove to you that I never suggested the idea of arms (Hill himself says so), who will prove to you, that so far from stimulating their passions against the government, my language was not only constantly peaceable, but specifically threatened them with the dangers which might arise from tumult and confusion; that the cause of reform could only go on with the cause of peace, and it would be giving a strong argument to the enemies of reform, that if a little was granted, more would be expected.

Joseph Eyre, the constable, gives no evidence, and seems merely to have been introduced for the purpose of displaying the pikes; the whole of his evidence is, that he has found pikes, one here and another there; he might as well have said he went to York and found one there, and to Derby, and found another there. Am I to be called to account for men having pikes in their possession, not that I think it an illegal act; for I will, by and by, show you that every man has a right to have arms in his own defence, and according to his condition. Eyre states nothing about my speech at the Castle Hill, but that there was such a noise he could not hear.

I have now taken the most important evidence of the whole. Upon the evidence of Wreaks and Frith I shall not trouble you with much comment; their testimony, whether considered in its matter or manner, speaks for itself. You observed that I undertook the task of cross-examining Frith myself; for certainly I, of all men, am the most capable of judging what I did say, and certainly therefore the most capable of knowing whether this paper, stated to be a representation of what I did deliver, is absolutely so in fact. Knowing that it is not so, and knowing that it does not contain any other than a very defective account of the matter which I spoke, it was very natural for me to press him extremely upon the points he adduced; I did not trouble myself with cross-examining him much, but merely repeated his answers to the questions put to him by the counsel for the crown—invoked him, as he stood before God and his country, to take his own time, and seriously to re-consider his assertions—he has repeatedly sworn to all—I have taken down his evidence—I will bring honest witnesses to give the lie direct to every word he says, and there I leave him.

Now, gentlemen, I am going to take upon me a very laborious task—I am going to defend (even admitting those speeches to have been spoken)—I am now going to defend them upon the principles of the British constitution, and the laws of the land. You will observe the first speech, Frith himself declares was in general applicable to the case of Mr. Muir, and the rest of those unfortunate gentlemen; that it was applied solely to the circumstances relative to their prosecution; but in the speech here libelled. I am represented as entering into a general discussion upon the principles of civil society. It begins with saying, "the day is at length arrived when fanaticism and superstition"——Now let us rest here a moment; suppose you admit this expression to have been uttered. I might here declare, that I meant from it the fanaticism of the Methodists, and the superstition of the Roman Catholics; a fair inference from Frith's testimony, who has coupled the expression with others on popery, and a declaration that he is himself a Roman Catholic. But his evidence on this passage is equally false with the rest of his evidence. I do not intend to explain it in that way, for the words were never used; but, gentlemen, is it not true that the day is arrived when fanaticism and superstition are gradually declining. Do we not see men whose minds were absorbed in ignorance, coming forward into the light? —Do we not see those men who have been long under the trammels, unquestionably of superstition, enjoying now the peaceful comforts of a more pure religion, and a more enlightened morality? This we daily witness.

It is said, "the energy of Englishmen will no longer endure this strange uproar of injustice" (meaning, the indictment says,) "of injustice in this country; and meaning and insinuating thereby, that injustice is practised in this country by the government thereof;" that is the innuendo, the previous part of the speech is referable to principles of society, and so it will be found in various parts where the innuendoes are made, which innuendoes, of themselves, libel positively, in my opinion, the general character of the nation.

"I trust, my countrymen (meaning the people of this country) are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone." Now, have we never heard that kind of language from our constitutional lawyers and parliamentary writers? Most certainly. I will now produce one. My lord, I am so exhausted, that I trust your lordship will permit my solicitor to read for me.

Mr. Justice *Rooke*.—Certainly.

Mr. *Yorke*.—Gentlemen, this book is the production of the learned Mr. Petyt, and——

Mr. Justice *Rooke*.—Mr. Yorke, I mean to direct the jury, that every man has a right to discuss political subjects; but as to discussion here, I shall not suffer it; no judge can decide between you, when Mr. Law comes to reply. It is every man's right, but he must take care so to express himself as not to excite discontent and disaffection. If a man expresses his political sentiments, it is for

the jury to say with what intention he does it; they are not to discuss the metaphysical sentiments, but the intention with which he does it. As to the citing all these authorities the Court cannot listen to them. There is no doubt as to the great question; very honest men entertain different opinions upon the subject; the only difficulty is for every man so to maintain his sentiments, so as not to violate the public peace, and the question is, not whether you have maintained a false proposition; the question is, whether, when you find fault with imperfections, your speech has been such as tends to *peace and order*:* that every man has a right to discuss political subjects, I certainly agree.

Mr. *Hotham*.—It is Mr. Yorke's intention, my lord, to show that expressions stronger than those he made use of, have been used by the most eminent lawyers.

Mr. Justice *Rooke*.—It will be for Mr. Yorke to show that, upon similar occasions, great men have uttered similar expressions.

Mr. *Yorke*.—My lord, there is this difficulty, I think there are some points which would come much more pointed from such authorities. The jury should consider, and I would have it impressed on their minds, that although young, the collection of these authorities has not been the reading of one day, or one week, or one year.

Mr. Justice *Rooke*.—And when I tell the jury that your notions may, in themselves, be perfectly innocent, I suppose you will be satisfied with that, and that the question will only be, whether those notions have been improperly and unseasonably uttered; not whether the notions themselves are improper. I promise that I will state to the jury, and I now state it to them, that parliamentary reform has called forth a great deal of discussion, and that a perfect constitution cannot be expected in the present state of human nature; and, therefore, honest men may employ means whereby that constitution may be ameliorated: but the question is, whether they have kept within the line; if they have made use of improper occasions, or language that is intemperate, they are amenable to the laws of their country: on the contrary, if in moderate language, and on proper occasions, then what they say is perfectly innocent.

Mr. *Yorke*.—My lord, there is another difficulty; it has not been proved that I am in the least concerned in that publication.

Mr. Justice *Rooke*.—That is a question for the jury, excuse my saying any thing upon that now; but as to your principles, they are such as may very innocently be disseminated. I think what I now say puts an end to the necessity of your producing authorities.

Mr. *Yorke*.—It certainly shall, my lord; I am happy to hear your lordship lay this down as your opinion; but your lordship must know that every thing that came out upon the examination of almost every witness, that I gave some account of the English constitution, and what my opinion of it was, and that when I reprobated the want of equal representation, I approbated it as not possessing its primitive purity. Your lordship recollects two acts of parliament in the reign of Edward 3rd, which specifically mention that annual parliaments were the then law of the land, and several other circumstances in our parliamentary history, as well as acts of Henry 4th, and the disqualification act of Henry 6th, go strongly to establish the ancient right of equal representation. Am I, with your lordship's permission, to state what my perception was of that constitution, in order that I may point out where the necessity of reform lay; which, in my opinion, with such precedents and great authorities as these before me, will contribute greatly to my justification?

Mr. Justice *Rooke*.—I do not at all find from the evidence hitherto, that the mode of reform has been hinted at;—annual parliaments and universal suffrage is the general principle upon which the witnesses say you have gone. Now annual parliaments and universal suffrage are contrary to the present established constitution of the country. The subject of parliamentary reform is certainly open to every man's discussion; but the only question will be, whether you have discussed it peaceably.

Mr. *Yorke*.—When the triennial act passed, many of the first lawyers regretted that they had not demanded annual parliaments, which they declared to be the ancient law of the land.—Lord Sommers, who framed the declaration of rights, was decidedly of that opinion. I have his own authority for it, in a work of his, intituled, "The Judgment of whole Kingdoms." I will just take your lordship's opinion upon one authority upon equal representation. Sir Thomas Smith, doctor of laws, in this work, written in the time of queen Elizabeth, intituled, "De Republicâ Anglorum," asserts it directly in book the 2d, chapter the 2d, pages 50, 51, which he calls an Account of the English Constitution; in a very particular manner, he says,

"Atque ut concludam breviter, quicquid in centuriatis comitiis, aut in tribunitiis, populus Romanus efficere potuisset, id omne in comitiis Anglicanis, tanquam in cœtu

I. PRINCIPEM
II. POPULUMQUE

representante, commode transigitur, interesse enim illo conventu omnes intelligimur cujuscunque amplitudinis status aut dignitatis principesve, AUT PLEBS fuerit, sive per teipsum hoc fiat, sive per procuratorem."

"Plebs," my lord, is a very strong word; sir Thomas Smith being a doctor of laws, a degree which in the times he lived [illegible]

* "These words, printed in Italics, I have *endeavoured to supply*, Mr. Ramsay having *left a blank in his copy*." *Orig. Edit.*

quired a knowledge of the civil law, it is obvious he used it as a civilian, and it is therefore strongly favourable to the modern acceptation of it. This gentleman was lord chancellor to Edward 6th and secretary of state to queen Elizabeth. And I can produce books written from two to four hundred years ago, in which whole passages are to be found exactly similar. However, I will only just read one or two extracts from Fortescue, Coke, and judge Blackstone, and then pass on.

Gentlemen of the jury,—In the first place with respect to annual parliaments, here is an account given by sir Henry Spelman of the ancient Anglo Saxon government, of their holding their michel-gemote: and he states it in *annuo parliamento.* Mr Camden has another case in point. Here is the parliamentary roll of 5th Edward 2nd.———

Mr. Justice *Rooke.*—You seem not at all aware that the Crown used to call a parliament annually, but there was not an annual election. These words *annuo parliamento,* relate to the time of their meeting, and not their election.

Mr. *Yorke.*—Then I will not trouble your lordship with any authorities.

Gentlemen of the jury, I shall certainly attend to the direction of his lordship, and shall quote no more books.

Gentlemen, I conceive as his lordship has just now laid it down, that provided a man confined himself to the strict rules of decency and good order, he has a right in this country to give his opinions upon any specific plan of government, I conceive also, that he has a right, provided his principles or speeches have not a tendency to disturb the peace or tranquillity of the country, to advance any principles that shall ameliorate the social order. This position is, I believe, generally admitted to be the law of the land; if this be the case, you cannot say that any man has been propounding sedition, who has, from a pure motive, been endeavouring to restore the constitution to its primitive integrity. Suppose, for a moment, I am in error, and that annual parliaments were not the law of the land, as his lordship has declared, at any rate it must be admitted, that triennial parliaments were by an act of the legislature in the time of king William 3rd As to the principle of universal suffrage, it does not mean that persons of property shall be excluded from that just degree of consequence which they ought to enjoy in the state; and I believe property would be more secure, if a more equal representation were established, and if the system of annual parliaments were again restored, or even triennial parliaments. All thinking men admit the principle of universal suffrage, however they may differ respecting the expediency of its practice. In consequence of those principles which I have formed from much reading and much reflection, which I have formed from the opinions of men whom I now see high in life, from those principles I felt *myself* bound to act. You will judge, from the evidence I shall adduce, whether I have gone beyond the bounds of prudence, and whether, if I have gone beyond the bounds of prudence, there be any degree of criminality in the intention, upon which alone the law of England authorizes you to find me guilty. We live certainly in an age when every nation in Europe seems to be disturbed by internal danger; we live in an age when the political horizon is clouded with a fearful prospect, when principles are established which were never before known in the world, and when all the ancient systems under which men have lived are shaken to their foundations. It therefore becomes our duty to consider whether, as good men and good citizens, we ought not peaceably and in good time to reform our government; it behoves us to consider, whether it be not expedient to produce this reform immediately; it behoves you to consider also, whether you will be authorized in punishing a man who, from such a motive, has thus acted; because it is evident, that if he had done so he has been an enemy certainly to anarchy and revolutions; it will be proved to you, that my conduct was totally inimical to every species of anarchy; and this you will hear from men whom the counsel for the Crown may sift to the bottom. If this be true, for God's sake why do I stand here? Why am I arraigned for that which has brought other men into power, who now enjoy the confidence of his majesty. The duke of Richmond himself was an advocate for annual parliaments and universal suffrage. This gentleman is not punished, he has not been arraigned; but because I possess not his personal consequence in the state, because I am unbefriended by factions, and am hostile to all political parties, I am called forth to be the victim of your insulted laws, though I have exactly pursued that beaten track in which other men have gone for at least fifty years past. You know, gentlemen, a few years after the triennial bill passed, motions were made by many worthy patriots in the House of Commons for annual parliaments; and presently after the reign of queen Anne, on the pretence of danger from a foreign invasion, it was considered by the members who were then devoted to the house of Brunswick, that if there was a fresh election, the party attached to the Pretender, might, by intrigue and deception, again involve the state in civil commotion; to avoid which septennial parliaments were introduced, and they have remained ever since, without any reason whatever having been assigned for their legality, without any reason whatever for their expediency, and when the ostensible cause for which parliaments had been prolonged was removed; therefore septennial parliaments are most unquestionably an abuse since one of the———

Mr. Justice *Rooke.*—Septennial parliaments are the law of the land, and I cannot bear you go on in that way.

Mr. *Yorke*.—Septennial parliaments are unquestionably an actual law of the land; but what I mean to state is, whether according to the principles of this revolution they ought to be so. May I not state it as the opinion upon which I acted?

Mr. Justice *Rooke*.—No

Mr. *Yorke*.—Mr. Pitt himself and most of the great men have held the same language.

Mr. Justice *Rooke*.—Not in a court of justice. I am bound by my oath to abide by the law, and I cannot suffer any body to derogate from it.

Mr. *Yorke*.—I hope your lordship did not think I meant to state any thing derogatory to the law of the land; I only meant to state that as my opinion.

Gentlemen—In short, I see clearly all I can state to you respecting those principles by which I have been impelled, must be drawn within a very narrow compass—that of a reformer. It will be the duty of the counsel for the Crown to prove me to have been a revolutionist; for if they are unable to disprove my positions, you cannot be authorised in giving a verdict for the Crown, unless those speeches which were made by me should be deemed libellous and seditious, and also that they were delivered with a criminal intention.

Nothing will now remain for me but to address your minds upon subjects very important to the interests of society—the right of opinion, the freedom of the press, and the immutability of moral truth. It is necessary that, in the peaceful discussion of subjects of government, morals, religion, or manners, the press should be allowed to teem with publications, provided they be not inconsonant with the happiness or peace of mankind. It was the doctrine of the good king Alfred, that the people of England should be as free in their actions as their thoughts. Our constitution was built upon that patriotic sentiment, and he was its illustrious founder. Trial by jury enables you to bridle the licentiousness of the press, and to decide as judges of the land, both upon the fact of publication, and the intent of publishing, which must become objects for your investigation. For even if it be proved that I was the author of this publication, still if you should think my intention was not criminal, but simply to inform the minds of my fellow-citizens, surely you cannot, upon your oaths as men, put your hands to your hearts and say, this man is guilty of the crime alleged. For though he may have exceeded the bounds of moderation, his intentions being laudable, we are not to sacrifice him, because zeal may have hurried him, as it does most men, to a degree of intemperance. A man feels an energy about him when embarked in a just cause; and *this* enthusiastic desire of attaining the favourite object of his mind, increases upon *him in* proportion to the probability of success, and to the legality of the measure itself. I am not speaking of that terrible enthusiasm which has begotten so much havock, and such great misfortunes in a neighbouring country, nor of that enthusiasm which has caused so many wide wasting and desolating wars in the world, domestic strifes and civil commotions, but of that which is engendered by virtue, that which enables a man to kindle in the common blaze of liberty, and impels him in a time of danger, from an enlightened love of country, to be foremost, and to share its various fate, whether of destruction or of glory. If enthusiasm be capable of producing such generous sentiments, it behoves you to consider all the circumstances of the case; to consider, whether if I have exceeded those limits you are authorised in leaving me out of your hands, and committing me to the judgment of the Court. The dangers with which this country is threatened, are supposed to arise from men who make the extent of their reform a colour for their pretences to instigate the nation to a revolution. It is suggested (and why it is suggested at this period I know not) that every man who espouses the cause of reform is a leveller as well as a republican; and if he wish for a more equal representation, that he means to destroy the constitution, as consisting of King, Lords, and Commons. You are to weigh these things in the just balance of discrimination; you are to examine whether I have employed pretensions to veil crimes, and whether, from the nature of the evidence you have heard, as well as from that which you are to hear, the reform proposed is such as you, and every good Englishman, would wish to see established, or whether it is that which would tend to involve your country in all the horrors of anarchy and confusion.

It is high time that the elements of knowledge should be domesticated, and that sciences should stoop to enter the poor man's door. It is high time that truths, which are wrought by nature on the minds of men, and which have a tendency to promote their happiness, should be unravelled. From the rational investigation of subjects, essential to the melioration of mankind, we shall be enabled to conclude upon those systems which seem most conducive to the attainment of that generous end. All opinions, therefore, whether right or wrong, ought to be entitled to a free and liberal communication; for there never can be any discrimination between truth and falsehood, if the exercise of either be forbidden. To restrain the avowal of principles, or even the propagation of opinions has ever been the mistaken interest of rulers. It has been considered as very politic to compel every inhabitant of the country to unfold the means by which his expenses are furnished. It ought to be an unchangeable principle of government, that every individual be not only permitted but required, in the important affairs of his country, to proclaim the opinions which direct his vote of suffrage. Public safety

might cause, among those persons who are entrenched within the retreats of affected prudence, no small degree of trouble and anxiety, but it would occasion a great advancement of truth, knowledge, and freedom. The public safety is not injured by those who assemble in public squares and meetings, and advance doctrines, couched in the spirit of error, but from those who never show their faces among the people, who never publicly avow any opinions, who temporize always between truths and falsehoods, or who undulate from one side to the other, as the tempest of opinions blow them.—From such men the commonwealth can have no hopes, nor can it repose any kind of dependence upon them; for, like another Proteus, they assume a thousand different shapes, proportioned to their selfish principles, their interests or their views. It may be replied that these observations have a direct tendency to ferment the public mind, and to promote sedition; but to have right thoughts of things, and to communicate those thoughts to others, is the whole part we have to act on this stage of the world. Those who are denied the exercise of this right I pity as slaves bending beneath the rod of oppression and the angry brow of misfortune. Those who surrender this precious gift of God, and those who do not claim, assert, and vindicate it, when occasions offer deserve the contempt of men, and ought to have the manacles of power rivetted about their necks. If you punish a man for not descrying truth as you descry it, you punish him on no other ground, but because he sees not as you see. To despotism the exercise of reason is not only unnecessary, but inconvenient and dangerous. Tyrants, civil and ecclesiastical, have accordingly reprobated it in all ages, and they have stretched out their vindictive arm, arrayed in terrors, to execute those tortures which the utmost subtilty of the human mind hath invented for the prevention of the use of reason. No wonder! it is the only sure and fatal enemy to every species of tyranny; men will ever be free in exact proportion as they use their understandings; hence the love of truth has been deemed seditious and dangerous to the state by oppressive magistrates; hence the origin of persecution, which hath hung its infernal clouds for ages over the world, under which nothing generous and manly could ever spring up, and which hath rendered almost the whole face of this earth a frightful waste, flooded and traversed by rivers of human blood. Sometimes indeed to the consolation of oppressed humanity, the benignant light of philosophy hath skimmed upon the surface, and truths have occasionally illuminated and refreshed the world. To those generous minds which have occasioned it; to those who have sacrificed their interest and their lives to produce it; to those, who still struggle for the freedom of human reason and all the great rights of human nature—*let all* praise and all thankfulness be given. Every man who encourages and assists his fellow creatures to the acquisition of truths, by the exercise of their own faculties, deserves well of the world; but he who imposes silence on the human mind, who would debar men of the free exercise of human powers, and who would consign society again to the sleep of dark ages, is an enemy to the best interests of mankind! It is the jealousy of despotism, holding truth in detestation, which hath exposed nations to the abandonment of reason, and to the consequent adoption of error: it is this which hath tarnished the pages of history with the recital of those victims to its jealous policy, who were the warm and avowed votaries of reason. But the activity of the human mind is not thus to be suppressed! such a mode of rule might prevail when the governments of the world exhibited nothing but the melancholy prospect of masters and slaves! but it will have no currency among a people who love liberty, and who have the spirit to assert it. It may be said that, in thus vindicating the rights of the human mind and pleading the dignity of the human character, I aim at the subversion of order and peace. It may be said, that the people are as incapable of exercising this liberty, as they are unfit for liberty itself; and that in their unsteady hands it would be an engine of licentiousness, more likely to be employed to their injury than to their benefit. Until it shall be proved that those who rule are made of a different composition to those who obey; until it shall be proved that they are endowed with minds naturally different and superior to those of the vulgar, I shall never be persuaded to admit such a doctrine, which would eventually transform the great majority of mankind into beasts of burthen, in order that a few might load and drive them. Order and peace are valuable only as the means of happiness.

In the despotic regions of the East, the silence of the people bespeaks their misery; all is order and peace—ignorance and slavery. Is the order, and abjectness, and peace, arising from ignorance and slavery, to be put in competition with that spirit-stirring vigour, and that heart-felt animation, which are only to be derived from the love of knowledge or virtue? It may be said, that I am uselessly pleading a cause, which does not stand in need of my assistance; that here every man is at liberty to think for himself, and all opinions are tolerated. As far as this is true, it is an honour to the country; but there are yet many bitter remnants amongst us of the ancient leaven of persecution. It is time that these should be removed, and that the mind should no more be under a subjection so mortifying, severe, and humiliating. When the channels of complaint are barred up, the sense of injury sinks deeper into the heart, the mind is soured and irritated, and opportunity is ardently sought after to attract and concentrate the materials of the rising storm, which with

so portentious an aspect, threatens the horizon of humanity with unforeseen mischiefs. It is in your power to give to the benevolence of genius full scope to become the defenders of those who, from defect of education, cannot defend themselves. It is in your power to make the word *country* agitate the minds, and regulate the conduct of the men of England. From a just comprehension of the duties we owe to it, a thousand intellectual and moral blessings will necessarily arise; but there never will be any genuine love of it; those duties will never be acknowledged, until individual probity and public probity be one and the same. National hopes can never be raised; national ambition can never be aroused, until we shake off our lethargic torpor, and develope the germs of genius, of virtue, and of public glory. National independence can never be secured as long as borough-representation pervades the country, perpetuating corruptions, and widening the breach to the introduction of fresh abuses. If that confidence, which is the pillar of society, must be destroyed by unwarrantable suspicions; if rewards must be held out to the blood-hounds of information as the pledge of public security; if public prosecutions are to sour and embitter the public mind, how can such a nation prosper? how can it become respectable in the society of nations? If you prevent freedom of discussion, you will destroy that happy equilibrium of government, so essential to the permanence of our political freedom, which our fathers drew up for us, written with their blood, and without which, as Mr. Law has stated, man would be a perfect savage, and our country would be merged in that gloomy and brooding barbarism, beneath whose barren and noxious shade it had slumbered for centuries preceding the glorious epoch of the revival of letters, and the still more glorious invention of the art of printing.

Before the dawn of civilization and of letters, a barbarian ignorance, the offspring of Gothic policy, overwhelmed the world; and when Luther, holding in one hand the sacred writings, and with the other beckoned to the northern nations to arouze themselves from the profound lethargy in which their mind had been sunk and embruted, the faculties of the mind sprung up into life, and men recovered the privileges of sensitive beings by the use of inquiry and thought: nor did he attempt to hurl down the idols of superstition from a spirit of commotion, but from the full conviction that he was conducted in his progress by the torch of truth. Fortunately, indeed, for Luther, kings, princes, and magistrates, found it to be their interest to martial themselves around his standard, and to draw their swords in defence of his cause, which they now made their own; but had his principles ran counter to their political interests, we should have seen mighty barriers opposed to the discussion which then took place; we should have seen the bloody banners of persecution unfurled by those very plenipotentiaries, on this occasion, found it convenient to inveigh against persecution itself; we should have seen inquisitorial tribunals erected in every state of Europe, and fires lighted up to bewilder conscience and terrify opinion; and it is much to be doubted, whether even that little that was gained to reason, by the reformation of religion, would ever have taken place. But, happily for men, for once, the disputants of princes was found to agree with the disputation of the people, and the cause of the people became the cause of princes, a general insurrection of the human mind blew up, with the fury of a volcano, against that papal domination which had subjugated it for whole centuries. This Colossus, which had only ignorance and superstition for its basis, fell, struck down by a pebble; and when the daring arm of a barbarous monk had rent asunder the veil which had covered it, the genius of the age applauded the deed and stamped his name with glory; and had the free right of discussion, which it was then found expedient to permit, been prolonged, the pure religion of reason would long since have been fully established amongst mankind.

Before the invention of the art of printing, which has since wrought so great a change in the condition of mankind, useful knowledge dwelt only in the sequestered habitations of a few philosophers; hence, in the histories of Greece and Rome, nations so often held up in these modern times as fit examples for imitation, you read of nothing but massacres, seditions, and slaughters, the consequent effects of ignorance, of faction, and of power abused. Read merely the marginal notes of Livy, and you will find them all pointing to the sad condition of society, which, in the body of his work, he has described with so much glowing eloquence; or read the more nervous and affecting account of that illustrious historian, who has painted men with so much energy, truth, and address—affecting events, in so pathetic a manner, and virtue with so much sentiment; who possessed, in so high a degree, the true eloquence of expressing great things simply, and who may be regarded as one of the best masters of morality, by that sad but useful knowledge of men, which may be learnt from his works.* With these in your hands, you will read the dismal history of the ignorance and depravity of the human mind, and with the history of your own country; with the history of the savage priest, who dips his hand in human gore; the gloomy inquisitor, who gluts his eyes with the slow lingering torments of his fellow-creatures; and the statesman reeling drunk with the adulation of the people; from all these you will be enabled to extract one substantial truth, which the vicissitudes of human affairs justify, that without knowledge

* Tacitus.

there can be no liberty. But when the art of printing was invented, the mind commenced a revolt against error, and the heart a rebellion against oppression; men became gradually better informed, and science enlarged her circuit; the principles of government were investigated, and its legitimacy was ascribed, not to a commission from heaven, a *jure divino* right, but to its fitness to promote and ensure the peace and happiness of society. Unfortunately, the first progress of the art of printing was slow; it did not perform its prodigies until a long time after prejudices and the ascendancy of power had raised a formidable rampart against all spirit of novelty, and innovation. Ambition, interest, and injustice, were not backward to avail themselves of the same means employed by reason to oppose them; and before ignorance could understand the characters traced on paper, the press had sent forth as many falsehoods as truths into the world. In our own country nothing hath so much contributed to our national welfare as the freedom of discussion, supported by this beneficent art. You know well our history—you know that the ignorance of the people has been the source of our public misfortunes—you know that the darkness which overshadowed the rest of Europe and eclipsed the human mind, darkened also our country; and if, at any time, philosophy at intervals appeared amongst us, it flashed but for a moment like the meteor in the heavens. Want of knowledge hath deluged every plain of this country with our kindred blood. All the wars of the barons, and the contentions, sometimes for one pageant, sometimes for another; sometimes for religion, sometimes for idle ceremonies, sometimes for the public cause, are melancholy proofs of the ignorance and imbecility of an infatuated people, raging, as lord Bolingbroke remarks, till the field of battle, and some theatres of clandestine murders left no man on one side alive who was in a condition to oppose or give jealousy to the other. We know too that juries have been the tools of ambitious ministers, and the blood of the innocent has often been shed to appease their anger. The blood of Sydney and Russell were smoaking upon the scaffold, when the highest eulogies were offered to the trial by jury; and yet, this very trial, instead of becoming the sanctuary of the oppressed, was converted into an engine of destruction for the people. If, therefore, in reading the history of England, I glory in the benefits of the trial by jury, is it not because I know the dreadful consequence of its abuse? If I inquire into the utility of the House of Commons, is it not because I look back to the times of the barons, when our fathers were in a state of vassalage—when they had no opinion of their own—when they were the slaves of masters—and when the house of the people was not, as in after ages it has been, the advocates of the public cause? From Hume's History of England, you will find that House considered in no other light but like the Parliament of Paris to euregister the edicts of kings and nobles, to grant assessments and impose burthens on the people. From the freedom, therefore, of public discussion, I am led to examine into the principles of this government, and if I have discovered that the House of Commons was a mere shadow of representation, a mere farce, an engine employed either to corrupt the people, or to enable the executive power to wield injustice over their heads; and if I compare it with its circumstances, during later times, I am bound to say, that it is an useful branch of the legislature. Thus, in examining, if every point of discussion be only carried on on both sides with decency, if punishment follow not instantly, that opinion is submitted to the tribunal of the public, it is the most generous sacrifice you can make to the interests of your country. I must farther observe that men, considered as associated beings, do not come into society to debate on abstract and metaphysical points, but to decide upon those which will best promote their interests; to determine those controversies, which otherwise, let loose to roam about the nation, might lead to the worst of confusions; and let it be ever impressed on your minds, that it is the annihilation of a free and liberal spirit of opinion which is the nurse of anarchy.

France, a few years ago, weary of long injustice, broke, with a sovereign and vigorous arm, the fetters in which the spirit of domination had enthralled her noble pinions, and rose like an eagle from the bosom of knowledge, to the sublimest heights of reason, and seemed to be moving fast to the highest reach of human glory, when there arose one who trampled upon her laws, and rose upon the ruins of public freedom; who, after having raised himself amid the howling storm, to enormous power, mounted upon all the virtues and vices of the French republic, pointed with the one hand her furious and bursting passions against the confederate allies; and, with the other, wrote the sacrilegious mandate of death, which was, to send to the scaffold the best and most virtuous of his fellow-citizens—all who opposed his tyranny fell victims to his fury—all those who were eminent for talent, virtue, or patriotism, were the objects marked out to gorge his sanguinary tribunals. Thus, while he deluded the public mind, alarmed timorous consciences, and lighted up disunion among his countrymen, while he impressed upon their fanatical minds notions of dangers where none existed, and of conspiracies where none were found, Robespierre obtained the public confidence, which he soon abused, and which the people dearly repented of; for, immediately that it was established, they discovered that they had raised an idol of terror to themselves; and while the veteran armies of Europe, defeated and disgraced, were retiring before the con-

rageous and well-resolved legions of France, Robespierre, with his hands reeking with the blood of his friends, and of those who had been the instruments of his abused power, aspired at a domination which he was only to acquire by letting loose the waters of bitterness over his country, and which, when he did acquire, he had neither the courage nor the ability to hold. Such have been the frightful effects in a neighbouring country of depressing public spirit and annihilating public opinion; of imposing silence on the liberty of the press, or controlling it by the authority of government. Happily, for the world, France is now recovering from that wretched scene in which she hath been involved; and, I trust, with the blessing of heaven, that the moderation of her present legislators will give security, both to the liberty and property of her citizens, and permanent quiet to the nations which surround her. Such, then, whatsoever may be the form of government, are the fatal effects of subjecting the mind to the tyranny of opinion; as moral truth is always immutable, as it reigns in the bosom of the universe, so ought it to reign in the bosom of every man. He, therefore, who thinks he can point out the road by which it can be discovered, so far from deserving punishment and proscription, merits the applause of his fellow-citizens; of this conduct jurors are always the judges, and if government, whether from motives of public security, or for the gratification of personal resentment, shall prefer a prosecution against any individual—that prosecution is instituted for their decision;—it is submitted to their opinion, because they exercise, in this instance, the highest power in the state—because you sit as representatives of the whole nation, and are supposed to concentrate in your persons its whole opinion: considered in this light, you exercise an high office, and you cannot be too cautious of the delicacy of the situation in which the laws have placed you. I trust you will discriminate without passion, and put the most liberal construction, not only upon words, but upon actions. If, gentlemen, government be founded upon the confidence of the people it will invite discussion—it will feel that it is built upon the sense of its utility—it will feel that it will no longer exist than while it is believed to be useful—it will not desire to be supported by corruptions and abuses, but upon the inductions of reason, and the applauding sentiments of those who live under it. In short, it is from the collision of opinions that light is struck out, and it will be found, I believe, to be an invariable rule, that magistrates are more secure when their interests are found to coalesce with the interests of the people.

Now, gentlemen, let us resume our remarks on these expressions, deemed so inflammatory—*let us* see if we cannot produce, from the *writings of some of* the first personages of our *country*, more strong expressions than those which have been employed in this pamphlet. Attend to the words of Mr. Burke delivered during the American war.

"The House of Commons was supposed originally to be no part of the standing government of this country, but was considered as a control, issuing immediately from the people, and speedily to be resolved into the mass from whence it arose. In this respect it was in the higher part of government what juries are in the lower. The capacity of a magistrate being transitory, and that of a citizen permanent, the latter capacity, it was hoped, would of course preponderate in all discussions, not only between the people, and the standing authority of the Crown, but between the people and the fleeting authority of the House of Commons itself. It was hoped, that being of a middle nature, between subject and government, they would feel with a more tender and a nearer interest, every thing that concerned the people, than the other and more permanent parts of the legislature. Whatever alteration time and the necessary accommodation of business may have introduced, this character can never be sustained, unless the House of Commons shall be made to bear some stamp of the actual disposition of the people at large. It would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical phrenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should in all cases be wholly untouched by the opinions and feelings of the people out of doors. By this want of sympathy they would cease to be a House of Commons."*

And again, "The virtue, spirit, and essence of a House of Commons, consists in its being the express image of the feelings of the nation. It was not instituted to be a control upon the people, as of late it has been taught by a doctrine of the most pernicious tendency. It was designed as a constant control for the people."†

And further speaking of the denial of the just claims of the people, he says, "An addressing House of Commons, and a petitioning nation; a House of Commons full of confidence when the nation is plunged in despair, in the utmost harmony with ministers, whom the people regard with the utmost abhorrence: who vote thanks, when the public opinion calls upon them for impeachments; who are eager to grant, when the general voice demands account; who, in all disputes between the people and administration, presume against the people: who punish their disorders, but refuse even to inquire into the provocations to them. This is an unnatural,

* "Thoughts on the Cause of the Present Discontents." Burke's Works, Vol. 2, p. 287, 8vo, 1801.

† Ibid. p. 288.

a monstrous state of things in this constitution. Such an assembly may be a great, wise, awful senate; but it is not to any popular purpose, a House of Commons."*

And again, "It must be always the wish of an unconstitutional statesman, that a House of Commons, who are entirely dependent upon him, should have every right of the people entirely dependent upon their pleasure. It was soon discovered that the forms of a free, and the ends of an arbitrary government were things not altogether incompatible. The power of the crown, almost dead and rotten as prerogative, has grown up anew, with much more strength and far less odium, under the name of influence. An influence which operated without noise and without violence; an influence which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tended to augment, was an admirable substitute for a prerogative, that, being only the offspring of antiquated prejudices, had moulded in its original stamina, irresistible principles of decay and dissolution."†

"Parliament was indeed the great object of all these politics; the end at which they aimed, as well as the instrument by which they were to operate. But before parliament could be made subservient to a system by which it was to be degraded from the dignity of a national council into a mere member of the court, it must be greatly changed from its original character."‡

And again, "They who will not conform their conduct to the public good, and cannot support it by the prerogative of the Crown, have adopted a new plan. They have totally abandoned the shattered and old fashioned fortress of prerogative, and made a lodgement in the strong hold of parliament itself. If they have any evil design, to which there is no ordinary legal power commensurate, they bring it into parliament." "In parliament the power of obtaining their object is absolute, and the safety in proceeding perfect; no rules to confine, no after-reckonings to terrify. Parliament cannot, with any great propriety, punish others for things in which they have been themselves accomplices. Thus the control upon the executive power is lost."§

The distempers of monarchy were the great subjects of apprehension and redress in the last century—in this the distempers of parliament.

"It is not in parliament alone that the remedy for parliamentary disorders can be completed; hardly, indeed, can it begin there. Until a confidence in government is re-established, the people ought to be excited to a more strict and detailed attention to the conduct of their representatives. Standards, for judging more systematically upon their conduct, ought to be settled in the meetings of counties and corporations; frequent and correct lists of the voters in all important questions ought to be procured. By such means something may be done."*

These are also the opinions held by Dr. Jebb, who was an associator at the time with Mr. Pitt, and is known, I believe, in York, to have been one of the warmest of the friends of freedom. This gentleman has stated that you have no right to petition parliament on the subject of reform, permit me to read one passage to you. "To what purpose was it to prefer an ungrateful petition to a person which you could not legally coerce? Men, possessed of power, are not disposed to part with it, upon the petition of the persons who have declared themselves injured by its exertion; such mode of seeking redress rather tends to perpetuate the grievance of which we complain." In another part, he says, "With respect to effecting the reform in question, I own I feel strong objections to the idea of complaining to the House of Commons by petition. If the present mode of delegation answer not the purpose of its institution, it is the proper office of the persons immediately interested (that is to say, the constituent body) to form a plan for its amendment." By the constituent body, I take it he means the great body of the people. In another part, he says, vol. 1. page 162. "Are our hopes of reformation then still to depend upon parliament?—Upon that parliament, which it ought to be the purpose of every friend to his country to reform: a parliament which can only be reformed by a recurrence to the principles of the constitution, and the strenuous exertions of the collective body of the people? It is strange, as an able man well observes, that it shall be allowed to the representative to make every innovation in the constitution that selfishness and treason can suggest, and, at the same time, to hesitate whether the constituent has a right to reform what the villany of the servant hath deranged." And again, p. 166. "Legislation is inestimable in the possession of the possessor; the party alluded to will never consent to accept what we term a reasonable compensation for borough interest, until thereto compelled by the power of the people" And farther, he says, page 171. "The opinion should be inculcated that, if the people would have their business well done, they must do it themselves—they must begin by putting themselves in possession of the right of suffrage, on the same principles as they would abate a nuisance, or demolish an inclosure, made on a common, without legal right. Nor does such an act imply, but rather exclude

* "Thoughts on the Cause of the Present Discontents." Burke's Works, Vol. 2, p. 229.
† Ibid. p. 239.
‡ Ibid. p. 286.
§ Ibid p. 291.

* "Thoughts on the Cause of the Present Discontents." Burke's Works, Vol. 2, p. 324.

violence. A declaration to parliament, from the present non-electors, that they are unrepresented, and, therefore, under no obligation to pay taxes, would be a sufficient hint in times when there is so great an inability to pay them." And farther, he says, page 455, "When the ordinary delegation ceases to express the people's will, are the Commons of this country altogether destitute of constitutional resource? When such doctrines are openly maintained, it becomes us not to reason but to act." And farther, page 468, 'Let an unprejudiced person consult the political disquisitions of the late excellent Mr. Burgh; let him attend to facts, which must have fallen within his proper knowledge; and he may possibly be inclined to doubt whether an English House of Commons is in being at this instant. Let him turn his attention to the rising spirit of this much insulted nation; and, it is possible, he may conceive that the present is the moment for giving existence to such a body; and that this might be effected by measures perfectly constitutional and pacific." And again, page 526. "Petition seems to acknowledge a power in the House of Commons of rejecting your suit. It transfers the authority from the senders to the sent. It supposes, in the majority of the House, a dignity and independence, which the nature of the petition evidently implies they do not possess. It calls upon them to reform themselves, which a corrupt body of men never did nor can do." And again, p. 494. "It was also with difficulty, I persuaded myself to adopt a style, in my idea too humble for such an occasion, in an address to the servants of the people; to a body of men, of whom I verily believed, the majority had already, in the short period that had elapsed since their election, more than once manifested an utter disregard to the interest of their constituents." And again, p. 524. "With respect to the mode of effecting the reform in question, I own, I feel strong objections to the idea of applying to the House of Commons by petition. If the present mode of delegation answers not the purpose of its institution, it is the proper office of the persons immediately interested (in the constituent body) to form a plan of its amendment.

Such were the sentiments of Dr. Jebb, the illustrious friend of Mr. Pitt and Mr. Fox; a gentleman, universally respected for the amiableness of his private character, and admired for his great learning, and a professor in the university of Cambridge. He afterwards acted as a physician in London, and died, I believe, universally regretted.

Here is also a work of archdeacon Paley on Moral Philosophy, and it is dedicated to the parent of Mr. Law, the counsel for this prosecution. Dr. Paley is certainly no male-con- [illegible] the other day in the news- had another promotion of he church, which I think Speaking of negro slavery, he says, "The great revolution which seems preparing in the western world, may probably conduce, and who knows but it is designed to accelerate, the fall of this abominable tyranny; and when this contest, and the passions that attend it, are no more, there will succeed a season for reflecting, whether a legislature which had so long lent its assistance to the support of an institution so replete with human misery, was fit to be trusted with an empire, the most extensive that ever obtained in any age or quarter of the world." In the chapter intituled, "Duty of Submission Explained," he puts the case of a difference in the nation, and determines, after Locke, in what manner it shall be settled.

"But who shall judge of this? Every man for himself. In contentions between the sovereign and the subject, the parties acknowledge no common arbitrator, and it would be absurd to commit the decision to those whose conduct has provoked the question, and whose own interest, authority, and fate, are immediately concerned in it. The danger of error and abuse, is no objection to the rule of expediency, because every other rule is liable to the same or greater: and every rule that can be propounded upon the subject (like all rules which appeal to or bind the conscience) must, in the application, depend upon private judgment. It may be observed, however, that it ought equally to be accounted the exercise of a man's private judgment whether he be determined by reasonings and conclusions of his own, or submit to be directed by the advice of others, provided he be free to choose his guide."

And again, page 434: "If public expediency be the foundation, it is also the measure of civil obedience—that the obligations of subjects and sovereigns are reciprocal—that the duty of allegiance, whether it be founded in utility or compact, is neither unlimited or unconstitutional—that peace may be purchased too dear—that patience becomes culpable pusillanimity, when it serves only to encourage our rulers to increase our burthen, or to bind it the faster—that the submission which surrenders the liberty of a nation, and entails slavery upon future generations, is enjoined by no law of national morality."

And again, p. 485: "There is nothing in the British constitution so remarkable as the irregularity of the popular representation. The House of Commons consists of 558 members, of whom 200 are elected by 7,000 constituents; so that a majority of these 7,000, without any reasonable title to superior weight and influence in the state, may, under certain circumstances, decide a question against the opinion of many millions. Or to place the same object in another point of view; if my estate be situated in one county of the kingdom, I possess the ten-thousandth part of a representative; if in another, the thousandth; if in a particular district, I may be one in 20 who choose two representatives;

if in a still more favoured spot, I may enjoy the right of appointing two myself. If I have been born or dwell, or have served an apprenticeship in one town, I am represented in the national assembly by two deputies, in the choice of whom I exercise an actual and sensible share of power: if accident has thrown my birth, or habitation, or service into another town, I have no representative at all, nor any more power or concern in the election of those who make the laws by which I am governed, than if I was subject to the grand seignior." — He says farther, "No usage, law, or authority whatever is so binding, that it need or ought to be continued, when it may be changed with advantage to the community. The family of the prince, the order of succession, the prerogative of the crown, the form and part of the legislature, together with the respective power, office, duration, and mutual dependency of the several parts, are all only so many laws, mutable like other laws, whenever expediency requires, either by the ordinary act of the legislature, or by the interposition of the people."

I will next read you an extract from sir George Savile's letter to his constituents, the electors of the county of York. It is intituled, "An Address to the Clergy, Gentlemen, and Freeholders of the County of York;" and is dated at Newcastle-upon-Tyne, September 5, 1780. — "But under all these disheartening circumstances, I could yet entertain a cheerful hope, and undertake again the commission with alacrity, as well as zeal, if I could see any effectual steps taken to remove the original cause of the mischief. Then would there be a hope.

"Till the purity of the constituent body, and thereby that of the representative be restored, there is none.

"While the electors sell their voices to the member, and the member distresses his fortune to buy them, parliament will be the purchase of the minister. Parliament-men will find ways of partaking other advantages than merely their share in common with yours, of those good measures which they shall promote, and of those good laws which they shall enact for your government and their own; and the modern improved arts of corruption, by contracts, subscriptions, and jobs, is attended with this perverse and vexatious consequence, that their benefit is not only unconnected with yours, but it grows upon your distress. They feed on the extreme; they fatten on every extravagance, that art and ill conduct can ingraft on the natural disadvantage of a remote, rash, ill-fated, impolitic, and unsuccessful war; the minister's direct interest (nay his safety) mean while requiring him to push the desperate game, and even in self-dence, to increase that very expense which is his crime; to entrench himself still deeper in corruption, and by headlong and unmeasured extravagance, to have the means of justifying to the faithful Commons his former mismanagement and misdeeds. See where this ends, but forget not where it begins.

"But I look upon restoring election and representation in some degree (for I expect no miracles) to their original purity, to be that without which all other effects will be vain and ridiculous. The tenant-right or good-will of a lease of three years, is as saleable as that of a lease of seven. It will find its price at both the London and country markets. It will be bought; it will be sold. The member will be as manageable, if the constituent be as venal; and they will not be afraid to meet at market as often as you please.

"But this is no time to talk of small rubs or difficulties. If something be not done, you may indeed retain the outward form of your constitution, but not the power thereof."

In his celebrated speech* in the House of Commons, on the motion for sending the lord mayor and alderman Oliver to the Tower, for protecting the printers against the serjeant of the House of Commons in the year 1770, he declares; "This House hath betrayed the rights of the people." He was called to order. Mr. Serjeant Glynn defended the words. Mr. Burke likewise, with great spirit, defended sir George Savile, and called upon the ministry to punish sir George if the accusation was false; and said, that if a false and unjust charge had been made, the gentleman who made it ought to be sent to the Tower; but added, that the ministers were conscious of the truth of the assertion, and therefore, in a tame and cowardly manner, couched under it. He said, the people abhorred the present ministry, and asked the speaker if the chair did not tremble under him. Towards the conclusion of the debate, sir George Savile stood up again, and declared, that he was as cool as before, more so he could not be; and added from Shakespeare, 'Bring me the test, 'and I the matter will reword, which mad-'ness would gambol from;' "therefore, standing up in my place as member for the county of York, I do declare that the House of Commons has betrayed the rights of the nation." No notice was taken of the words.

"We (the House of Commons) are sufficiently obnoxious, sufficiently detestable, to the nation already; and if we have no regard to the city magistrates, we should at least have some little consideration for ourselves.

"Since I have the honour (says a speaker on the same occasion†) I should say the dishonour, of sitting in this House, I have been witness to many strange, many infamous transactions. What can be your intention in attacking all honour and virtue? Do you

* This statement is not correct. The defendant appears to have confounded two different debates; see the New Parl. Hist., Vol. 16, pp. 698, et seq. and Vol. 17, p. 130.

† Colonel Barré

mean to bring all men to a level with yourselves, and to extirpate all honour and independence? Perhaps you may imagine a vote will settle the whole controversy. Alas! you are not aware that the manner in which your vote is procured is a secret to no man. Listen, for if you are not totally callous, if your consciences are not seared, I will speak daggers to your souls, and wake you to all the hells of guilty recollection. I will follow you with whips and stings, through every maze of your unexampled turpitude, and plant eternal thorns under the rose of ministerial approbation. You have flagrantly violated justice, and the law of the land, and opened a door for anarchy and confusion. After assuming an arbitrary dominion over law and justice, you issue orders, warrants, and proclamations, against every opponent, and send prisoners to your bastile all those who have the courage and virtue to defend the freedom of their country. But it is in vain that you hope, by fear and terror, to extinguish the native British fire. The more sacrifices, the more martyrs you make, the more numerous the sons of liberty will become. They will multiply like the hydra, and hurl vengeance upon your heads. Let others act as they will; while I have a tongue or an arm, they shall be free; and that I may not be a witness of these monstrous proceedings, I will leave the House; nor do I doubt but every independent, every honest man, every friend to England, will follow me. These walls are unholy, baleful, deadly, while a prostitute majority holds the bolt of parliamentary power, and hurls its vengeance only upon the virtuous. To yourselves, therefore, I consign you—enjoy your Pandemonium."—Gentlemen, I leave you to consider these expresssions of sir George Saville and the others, used in the House of Commons itself. I have employed none so vehement, although my principles are the same as those of the first literary men of the country, and grounded on notions, not of my own conviction, simply of the necessity of a reform, in a house where 307 members are returned by 2611 persons, but upon the concurring opinions of the most splendid orators, the deepest reasoners, the best men; on authorities, in other respects the most opposite, on the coincidence of every public meeting of the people which has been held for years past. Such opinions could not have been prompted by any cold principle, but fortified by such precedents, formed an animating spring of action. So far indeed from equality of suffrage being a complete departure from the fundamental articles of the British constitution, I maintain that the spirit, the history, the philosophy, the best authorities, and every thing but the practice of that constitution, assert it, I cannot then be considered as an innovator, nor can I boast of being the original of such principles; but I follow the immortal Mr. Locke, when he declares, that "I have truly no property in that which another can by right take from me when he pleases, without my consent:" and who farther declares, that "governments cannot be supported without great charge, and it is fit every one who enjoys his share of the protection, should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent (*i. e.*) the consent of the majority, giving it either by themselves, or their representatives chosen by them; for if any one shall claim a power to lay and levy taxes on the people by their own authority, and without such consent of the people, they thereby invade the fundamental law of property, and subvert the end of government; for what property have I in that which another may by right take when he pleases to himself?"* I follow the late lord Chatham, when he asserted, in the energy of justice, that to be taxed without being represented, is contrary to the maxims of the law, and the first principles of the constitution. I follow lord Camden, when he said that taxation and representation are inseparable; and, lastly, judge Blackstone, when he declared, with dignity and legal erudition, "that the Commons consist of all such men of any property in the kingdom as have not seats in the House of Lords, every one of which has a voice in parliament, either personally or by his representatives. In a free state, every man who is supposed a free agent, ought to be in some measure his own governor, and therefore, a branch, at least, of the legislative power should reside in the whole body of the people."

Now, gentlemen, I ask, whether a branch of legislative power does actually reside in the whole body of the people, according to the definition which those great characters have given of the British constitution? A petition has been presented by men of the first rank and respectability in the country, associated for the purpose of parliamentary reform, and who are justly called the Friends of the People; from which it appears, to our misfortune, that a very many members, sent by rotten boroughs, constitute a majority in the House of the people; their petition is upon record; it is enregistered upon the Journals of the House of Commons itself; and their object was highly praise-worthy; for, I believe, that until the disfranchising statute of Hen. 6th, the practice was built, in a great degree, on personal representation; and, I still think, that its spirit is the same. These principles, so congenial to the nature of a free people, and so essential to their happiness, were illustrated on the plains of America. For an attempt to defend these principles, and to raise the spirit of reform, a matter of acknowledged necessity, the lion-rage of my enemies hath been awakened, and I am brought before you under the sweeping crimination of every man suspected of wishing a

* Locke on Civil Government, §

reform. Who then are the conspirators? Those who have first dishonored the constitution, and afterwards prostituted it for sale. Who are the traitors? Those who have wickedly plotted the combination of one part of the people against the other, and lighted up disunion in society; those who have at first courted the people, afterwards petted them, and now threaten, without ushering them into the constitution.

Gentlemen, Blackstone has said, in the section on the nature of laws in general—"The constitutional government of this island is so admirably tempered and compounded, that nothing can endanger or hurt it, but by destroying the equilibrium of power between one branch of the legislature and the rest. For if ever it should happen that the independence of any of the three should be lost, or that it should become subservient to the views of either of the other two, there would soon be an end of our constitution. The legislature would be changed from that which was originally set up by the general consent and fundamental act of the society; and such a change, however effected, is, according to Mr. Locke (who, perhaps, carries his theory too far), at once an entire dissolution of the bands of government, and the people are thereby reduced to a state of anarchy, with liberty to constitute to themselves a new legislative power." And again, he says, vol. 1. p. 245—"Indeed, it is found by experience, that whenever the constitution oppressions, even of the sovereign power, advance with gigantic strides, and threaten dissolution to a state, mankind will not be reasoned out of the feelings of humanity; nor will sacrifice their liberty by a scrupulous adherence to those political maxims, which were originally established to preserve it. In these, therefore, or other circumstances, which a fertile imagination may furnish, since both law and history are silent, it becomes us to be silent too; leaving to future generations, whenever necessity and the safety of the whole shall require it, the exertions of those inherent (though latent) powers of society, which no climate, no time, no constitution, nor contract, can ever destroy or diminish."

Gentlemen, there is another idea, which, of itself, sufficiently justifies the doctrine of equal representation, and which I have always regarded of mighty consequence in the formation of laws, and in the infliction of punishments, which, I believe, hath not been sufficiently considered, even by the most zealous advocates of popular rights. It is this, that laws are not made for the pleasure of making them, but they arise from necessity, and are invented for the good government of those who are bound by them. It is just, therefore, that those who are to be made liable to punishment, should not only be made acquainted with the law itself which punishes, but should also give their consent to such a law, without which the *right* of punishment becomes an unjust assumption of power; but the consent of the people to them makes obedience to law a principle of moral obligation, and the infraction of it a violation of the social compact; and this is the only ground on which the right of punishment can be legitimated or justified. This reasoning can never be sufficiently appreciated; and upon it, I think, the greatest interests of society ought to be determined; and, I am happy, that on this occasion, I can again call in the aid (as I wish to do upon all occasions) of one of our first constitutional lawyers, Mr. Justice Blackstone, vol. iv. p. 8, who says, "The lawfulness, therefore, of punishing such criminals, is founded upon this principle, that the law by which they suffer, was made by their own consent; it is part of the original contract into which they entered when first they engaged in society; it was calculated for, and has long contributed to, their own security. This right, therefore, being thus conferred by universal consent, gives to the state exactly the same power, and no more, over all its members, as each individual member had naturally over himself or others."

This just maxim of policy receives a farther confirmation from the sentiment of that illustrious philosopher, whose book on Crimes and Punishments,* you will find, I never ceased to recommend in my fugitive addresses to the public attention.

Thus, gentlemen, it is evident, as a fundamental principle of legislation, that every man has not only a deep stake, but an equal property in the laws which he is to obey.

Gentlemen, emboldened by the language of all our great men, and by the practice of all those who have been deemed patriots, I have, in an humble degree, been the advocate of equal representation and short parliaments. These rights I have deduced from precedents, although I might have defended them on reason and the analogies of history. But notwithstanding I consider them as the basis of our ancient constitution, yet I would never provoke their adoption from the derivative claim of precedent; for neither the concessions nor the prejudices of ancestors—neither their unruly temper nor their servility, nor the encroachments of ancient kings, can constitute any precedents against the natural rights of mankind. We must not receive liberty as a boon or as a legacy; it is the inherent property of human nature, and all men have a right to assert it with ardour when betrayed or diminished; and they are culpable, in a high degree, when they neglect it. When either accident, cunning, force, or corruption, unhinge the form of a government, expedience only is to be considered in the resettlement of public affairs, and those who best provide against future evils, by such a settlement, deserve the most applause. For such an attempt, it is true, the ghost of conspiracy has

* Beccaria.

been conjured up against me, and my destruction is eagerly sought after by that crowd of people, of all conditions and ranks, who have contracted the unfortunate habit of living at the expense of the public, without serving it—who subsist upon a multiplicity of particular corruptions and abuses, which they have at length accustomed themselves to consider as so many rights; and who, alarmed and terrified, or affecting to be so, have formed a league, powerful by its numbers and the virulence of its clamours against the best friends of the constitution and laws of our country; but, it is to be hoped, that by your verdict they will acquire a lesson of which they seem to stand much in need. You will teach those who have nothing but power on their side to be silent when reason speaks, and not to attempt to drown the voice of the people amid the din of corruption, nor to deny their competence to assert or to enjoy the blessings of living under the ancient laws of the land.

Gentlemen, arms have been mentioned; and, to close the scene, pikes have been exhibited. You will observe that the indictment states, first, the design to traduce and vilify the House of Commons, as a pre-concerted plan. Secondly, an assemblage of people in order to give countenance to that design. Thirdly, Incendiary expressions employed to promote that purpose; and, lastly, to move the people to riots and tumults, for which they are instigated and advised to provide themselves with arms and offensive weapons; it was therefore necessary to introduce half-a-dozen pikes, in order to give solemnity to the close of the prosecution. It would seem as if I intended to ridicule you, or to insult your understandings, were I to occupy any portion of your time in what has not been proved home to me; and what, if proved, would be justified by the laws of the land. The indictment states, that these weapons were constructed for offensive purposes; on the contrary, the evidence for the crown have sworn directly that the sole object of their invention was defence: how, therefore, was it possible for me to negative what hath not been substantiated? How is it possible for any man to imagine that those who are employed in this prosecution meant to be serious, when weapons of defence were introduced as fit objects for crimination? Every subject in this country is entitled to the possession of arms in his house, for the purpose of self-defence; nor can the possession of them be construed into criminality, unless it be proved that what the law intends for the defence of his property and family, he has employed in the annoyance of his fellow citizens; at least I know of no law repugnant to this principle. The Bill of Rights, on the contrary, asserts, that the subjects of this realm, being Protestants, have a right to arms; and Mr. Justice Blackstone, after having recapitulated the various rights of the subject, concludes in these emphatic terms:—"The 5th and last auxiliary right of the subject that I shall at present mention, is that of having arms for their defence, suitable to their condition and degree, and such as are allowed by law; which is also declared by the same statute, 1st W. and M. stat. 2, chap. 2; and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression." One circumstance is to be remarked from this passage, that the people are to have arms "according to their condition and degree;" and the arms brought before you this day, precisely suit the condition of those for whom they were made; and are, according to the present system of modern tactics, totally inadequate to offensive purposes. Next, the very persons who made them have sworn that they had no other view but self-defence. And, lastly, they are allowed by law, because the silence of the law respecting their use, is a justification of the right of possessing them. Besides the great authority I have just brought forward, I could show you, from many of our ancient lawyers, and more especially from lord Lyttleton, in his life of Hen. 2nd, who has concentrated in one point, almost all that may be said on the subject, that arms were not only a public allowance, but that those persons who were not in possession of them, were punished by the law; besides, as no act of parliament has passed, restrictive of that right, it is a fair inference that the people of Sheffield have, in this instance, not departed from the rules of law.

Gentlemen, I have now gone through every part of the indictment, and the evidence brought forward to support it. I will simply recapitulate the whole. I have replied to the arguments of the counsel for the prosecution where a reply was necessary, vindicating occasionally the public cause, asserting the rights of our commonwealth, and disproving some of his positions, which appeared to me incongruous, unsatisfactory, and fatal to our political interests. The indictment hath also been commented upon abstractedly, and as connected with the evidence intended to support it. I have announced to you the nature of my exculpatory testimony, which I shall introduce to invalidate what is positively false, to rectify what is erroneous, and to clear up what is doubtful, as well as to give an unequivocal evidence of my uniform admonitions in favour of sobriety, peace, and good order. I still maintain, that the conspiracy has not been made out, and that I had no further communication with Mr. Gales, than any other man, an inhabitant of Sheffield, might have had; and my being in the room when Gales gave the resolutions to Camage, can by no means criminate me, since persons might have been there also who were totally unconnected either with party or politics, [illegible] would be therefore equally culpable, [illegible]

ing at his house at the time when Broomhead asserts, that I was requested by him to print my speech, is no proof of conspiracy, unless Mr. Gales had the power of the talisman, to convert every man into a conspirator who went under the roof of his house. And even Broomhead, though severely pressed by the counsel for the prosecution to declare that I assented to the publication of the speech, has solemnly sworn, that although repeatedly requested by Mr. Gales so to do, I gave no answer, and that he could draw no inference from my conduct, except, as he has observed subjunctively, in his own peculiar manner, "Silence gave consent, if silence gives consent." With respect to Davison, I believe the counsel for the prosecution are themselves satisfied, that they are unable, in any respect, to connect him with me. I have also commented, I hope sufficiently, on that part of the evidence relating to the words libelled, and on the shameful and discreditable testimony given by Wreaks and Frith. I have not neglected to profit by the occasion which this injurious prosecution hath given me to inculcate into your mind, and into that of this respectable auditory, the privileges of the subject on the freedom of discussion, and on the liberty of the press. I have asserted the dignity of the human character, and the rights of the human mind. I have endeavoured, as far as my abilities and my strength would permit me, to proclaim the immutability of moral truth, so necessary to man's happiness, and so connected with the first principles of morality. I have endeavoured also to vindicate the British constitution in its purity, and to illustrate briefly that magnanimous government which we derived from our Saxon fathers, and from the prodigious mind of the immortal Alfred. I confide to your prudence, moderation, and justice, the final decision on a subject which has occupied time, too short indeed for my justification, but too long, I fear, for your patience.

Gentlemen, you are now sitting in judgment on a most important cause; recollect the whole process of my proscription, from the beginning to the present moment; recollect that I was introduced, 200 miles from this place, while languishing myself in prison, as a principal instrument by which the blood of men, since deemed innocent, was to have been shed; had there been found a jury, who, in the spirit of alarm, would have convicted those men, it is more than probable that, standing as I now do, unbefriended, and forsaken even by men of my own professions, the partizan of no faction whatever, I should have fallen a victim to my upright intentions. I should have been left to have been my own pilot, to have fought my own battle, and even to have perished without being regretted by those to whom I am known only in the sunshine of prosperity, and by whom I am forgotten when overwhelmed by misfortune; not a tear would have been shed but by those of my own family, whose peace of mind, and whose domestic happiness, have been so painfully suspended since my detention in this castle. I should have been left to have struggled in a defence, under which I must have sunk, and with a mass of evidence, under the weight of which even innocence itself must have been crushed. When you reflect that I have been long suffering under a harsh and close imprisonment, exposed to the opprobrious tongue of calumny, and laid open to every species of cruel invective, without being allowed the means of defence, you must feel no small degree of reluctance before you can be induced to give a verdict, which must expose me to the vengeance of the law, cut me off still longer, and, from my state of health, perhaps for ever from society, and devote me, in the morning of life, to pass those days in a prison, which ought to be busily employed in laying the foundation of future comfort and tranquillity. Where, indeed, is the man to be found, who, at such a season, would not rather have endured a long imprisonment of five or seven years, rather than have lived as I have done so long, sinking under prejudices, and with the scaffold constantly before my eyes! Could even guilt attach itself to me, my sufferings have been greater than my offence. The laws of every social institution are contrived for the purpose of preventing crimes, rather than for the purpose of punishing individuals; and when justice smites with the rod, it is for example, not for revenge. But must those be gratified who think the laws have been outraged, and that vengeance must be heaped on the only one who was the least capable of defending himself; the only one remaining of prosecutions which have failed in their object; the only one indeed who, under similar circumstances, ever came into a court under so many disadvantages, alike pursued by inveterate enemies, and abandoned to his fate by those from whom he might have expected better things. Will my destruction secure order in the state? Will my punishment, admitting that I have not suffered more than enough already, prevent those insurrections which are rising up in every part of the country, from the want of the first articles of life, and from that complication of misery in which this unjust and unnatural war hath involved our people? Permit me here to observe, that while we are blackened as seditious conspirators, while I am denounced as the instigator of tumult and insurrection, the town of Sheffield, when almost every part of England hath been a scene of riot, has remained in the most perfect tranquillity, obedient to existing laws, and patiently bearing the heavy burthens which the necessity of the state hath imposed upon them. There has not been one instance of the most partial insurrection, not one act of hostility against the public peace, nor one act of aggression against private property. Ought you not then to infer, that the

people of that town are not indisposed to subordination; that they are lovers of peace and good order; and that, if they differ with yourselves on the subject of parliamentary reform, they would not wish to obtain that reform by any other than peaceable means? I confess, that amidst all my afflictions, this is one great source of consolation; it speaks more for me than a cloud of witnesses; it certifies my general character and conduct; it justifies my doctrines;—and I mention it with no small degree of exultation and triumph. That in these troublous times, when every part of the commonwealth is in commotion, I should stand here charged with irritating the passions of the people of Sheffield, and provoking them to tumultuous conduct (a town too which has been stamped as the mart whence emanated all the treason of the land); that I should stand here, I say, the avowed leader of a tumultuous confederacy, when facts speak the direct contrary, is an event as astonishing as it is inconsistent; an event that bespeaks my defence better than all my witnesses, and honours the character of that town which has been so much belied and calumniated.

These, gentlemen, are strong arguments, and I trust it will operate powerfully on the minds of those who, from a black and malign spirit, or who honestly perhaps have originated this prosecution against me, fatal to my individual interest, my happiness, and my future prospects in life. I trust it will recall them to a moment of reflection; that they will consider how dreadful a deed it is to sacrifice unprotected innocence, harbouring no dishonourable motives, to unmerited punishment. How dreadful a deed it is, to bring an individual before so solemn a tribunal as this, accused of intentions and crimes which the events of the day flatly contradict. The season when conscience reproves must come, though late; then must they determine whether he ought to have been punished, because they were alarmed; whether he ought to suffer, because they were safe; whether pain ought to be inflicted when security was undisturbed.

Has there been any insurrection against the government of the country? Have those plots which fear hath fabricated, and ignorance believed, been any where proved? Certainly not—Why then do state prosecutions rage around us? Is it for the purpose of continuing delusion, or of striking terror? If the channels of public justice be corrupted, if justice itself be converted into the means of revenge, national misery is arrived at its height, the laws intended to protect mankind will become instruments of their destruction, the havoc of the innocent must take place, and the most dreadful misfortunes which can befal a nation will prevail.

Gentlemen, in order to conciliate the affections of the people, you must persuade them, *you must* be attentive to their interests, and *they will* not only love but obey with pleasure; obedience without confidence is but a wretched system of government. It is but culpable pusillanimity. This trial is not a simple contention of property, or of dispute between individuals, but it is a question of the first national importance: it is to determine whether truth shall be discussed, or whether its propagation shall be followed up by punishment. In all ages and countries, state prosecutions have been the constant precursors of great and direful commotions. The annals of our own country are so replete with instances of this nature, that the observation must be familiar to every mind. When the sanctuary of the laws no longer affords refuge to the good intentioned, but is converted into an engine of destruction, the rights of the people will soon become objects of mockery, every art will be employed to divide, to corrupt, and to give countenance and encouragement to despotism. The most retired and private sentiments of men must suffer violation, and a tyranny, extensive as well as cruel, will environ us, lift up its head, and threaten defiance. But this is not the worst: truth no longer flashing like the lightning of heaven against the ministers and sons of corruption, the ambitious, the profligate, and the intriguing being raised by a Babel of crimes above control and above law, authorized cruelty will assume the place of justice, and the silence of the people be the sad indications of the throbbings of their hearts. These are the tokens and prelude of fearful times.

Considering truth as the first great means of promoting the good of my country, and of averting those mighty mischiefs which I have but lightly sketched, holding it up as the constitutional law of nature, I have made it the standard rule of my conduct. To suffer for this, I shall feel no degree of shame, and no degree of reluctance; and although my case needs no additions to make it hard and painful in the extreme, yet I trust I can bring my mind to bear with philosophy more and greater stings of misfortune; nevertheless I do not court them; long-suffering hath rid me of that enthusiasm, that high fever of the mind which always hurries a man to sacrifice himself, for those who, too often, forget not only his sufferings, but even the cause for which he suffers. I wish to avoid troubles; but if they must come, they shall find a heart early tutored and capable of receiving them unshaken and confident. Remember, gentlemen, when I suffer, you suffer also in the precedent; and that if I fall for having avowed the wholesome notions of our forefathers, and for having held up their institutions for imitation, you yourselves may be the next victims; you open the door to unremitting prosecutions, and block up for ever the passage of reason into the world. Remember the language of him whose name * still

* Junius.

in obscurity, but the celebrity of whose reputation will descend to future ages.

"Let it be impressed upon your minds, let it be instilled into your children, that the liberty of the press is the *Palladium* of all the civil, political, and religious rights of an Englishman.

"The power of King, Lords, and Commons, is not an arbitrary power. They are the trustees, not the owners of the estate. The fee simple is in us. They cannot alienate, they cannot waste. When we say that the legislature is supreme we mean that it is the highest power known to the constitution; that it is the highest in comparison with the other subordinate powers established by the laws. In this sense the word supreme is relative, not absolute. The power of the legislature is limitted, not only by the general rules of natural justice, and the welfare of the community, but by the forms and principles of our particular constitution. If this doctrine be not true, we must admit, that King, Lords, and Commons, have no rule to direct their resolutions, but merely their own will and pleasure. They might unite the legislative and executive power in the same hands, and dissolve the constitution by an act of parliament. But I am persuaded you will not leave it to the choice of 700 persons, notoriously corrupted by the crown, whether seven millions of their equals shall be freemen or slaves. The certainty of forfeiting their own rights, when they sacrifice those of the nation, is no check to a brutal and degenerate mind. Without insisting upon the extravagant concession made to Harry the 8th there are instances in the history of other countries of a formal, deliberate surrender of the public liberty into the hands of the sovereign. If England does not share the same fate, it is because we have better resources than in the virtue of either House of Parliament.

"I said, that the liberty of the press is the Palladium of all your rights, and that the right of the juries to return a general verdict is part of your constitution. To preserve the whole system, you must correct your legislature. With regard to any influence of the constituent over the conduct of the representative, there is little difference between a seat in parliament for seven years, and a seat for life. The prospect of your resentment is too remote; and although the last session of a septennial parliament be universally employed in courting the favour of the people, consider that at this rate your representatives have six years for offence, and but one for atonement. A death-bed repentance seldom reaches to restitution. If you reflect, that in the changes of administration, which have marked and disgraced the present reign, although your warmest patriots have in their turn been invested with the lawful and unlawful authority of the crown, and though other reliefs or improvements have been held forth to the people, yet that *no one man* in office has ever promoted or encouraged a bill for shortening the duration of parliament, but that (whoever was minister) the opposition to this measure, ever since the Septennial act passed, has been constant and uniform on the part of government. You cannot but conclude, without the possibility of a doubt, that long parliaments are the foundation of the undue influence of the crown. This influence answers every purpose of arbitrary power to the crown, with an expense and oppression to the public, which would be unnecessary in an arbitrary government. The best of our ministers find it the best and most compendious mode of conducting the king's affairs; and all ministers have a general interest in adhering to a system, which of itself is sufficient to support them in office, without any assistance from personal virtue, popularity, labour, abilities, or experience. It promises every gratification to avarice and ambition, and secures impunity. —These are truths unquestionable. If they make no impression, it is because they are too vulgar and notorious. But the inattention or indifference of the nation has continued too long.

"Good men, to whom alone I address myself, appear to me to consult their piety as little as their judgment and experience, when they admit the great and essential advantages accruing to society from the freedom of the press, yet indulge themselves in peevish or passionate exclamations against the abuses of it. Betraying an unreasonable expectation of benefits, pure and entire from any human institution, they in effect arraign the goodness of Providence, and confess that they are dissatisfied with the common lot of humanity. In the present instance, they really create to their own minds, or greatly exaggerate, the evil they complain of.

"With regard to strictures upon the characters of men in office, and the measures of government, the case is little different. A considerable latitude must be allowed in the discussion of public affairs, or the liberty of the press will be of no benefit to society: as the indulgence of private malice, or personal slander, should be checked and resisted by every legal means, so a constant examination into the characters and conduct of ministers and magistrates, should be equally promoted and encouraged. They who conceive that our newspapers are no restraint upon bad men, or impediment to the execution of bad measures, know nothing of this country. In that abandoned state of servility and prostitution, to which the undue influence of the crown has reduced the other branches of the legislature, our ministers and magistrates have in reality little punishment to fear, and few difficulties to contend with, beyond the censure of the press, and the spirit of resistance, which it excites among the people."

These venerable sentiments should never be effaced from your minds; for, if the liberty of the press be invaded in one instance, it will

be so in another—one precedent will beget more precedents, till a destructive system will be established, which shall sweep away the liberties and the laws of the land. To be convicted on such grounds, no man can regret, because he knows that in his fall he brings down with him the cause of justice, liberty, and humanity.

I am now about to introduce my witnesses, and, I trust, you will retain in your memories the evidence adduced on the part of the prosecution. I have great confidence in the candour of Mr. Law, and I am persuaded that he himself will be satisfied of the chain of connected and honest evidence on my behalf; he is a man of honour, and will, therefore, be governed by no other rule but that of right.

Gentlemen, although I have mentioned my long proscription, I conceive it necessary to observe, that it ought not to operate on your minds, as a part of my defence: for being tried upon a specific charge, and you, upon your oaths, being bound to bring in your verdict according to the evidence, this will become a subject of future consideration. I am not asking you for mercy—I demand only justice.—Justice, it is true, ought to be administered in charity; but I ask it not to be administered to me in mercy. The whole of these proceedings I deem to be perfectly anomalous. I have drank long and deeply of the cup of affliction. It is hard indeed to be compelled to drink the very dregs—my professional prospects, in this country, are, I understand, at an end—hope itself is defeated—that which the government did not think it proper to do, do you perform—snatch, with a vigorous hand, this bitter cup from my lip, and restore me to the comforts of society, and the bosom of an afflicted family; but if you think that conviction will be a means of preserving the safety of the country, and if, in consequence, you are resolved to surrender me to the vengeance of the law, I would have you understand that I will never shrink from principles which I know are founded upon the basis of truth and reason, and which, I am confident, will one day prevail universally amongst us. For, it is evident, that those passions and prejudices, which have been long sapping all public spirit, are now dispelling. The necessity of national reformation is becoming daily more generally acknowledged: When that happy moment shall arrive, I trust harmony will be restored to my country. Till then there is no shame in suffering: and if thus insulated from society and forsaken by all, I am asked what are the means I have to support me against so many enemies, I will answer in the firm language of Medea to her confidant, enumerating all her distresses, and recommending to her submission, "Myself! I say;—and that is enough."

Gentlemen of the Jury, I will now conclude. The political hemisphere is extremely portentous, and the elements around us seem surcharged and pregnant with great events—the most ancient thrones are now trembling beneath their possessors, and we know not that what we call stable to day, will be stable to morrow—a general wreck of the Gothic policy is taking place, and all the old and venerated governments of the world are passing gradually away. The lamp of science hath produced a new light; whether it be for the amelioration of the social order, or whether it be likely to introduce a sweeping desolation, it is not for me to judge—I can only venture to declare, that to me, the prospect is cheerful and consoling—to the prejudiced, to the interested, and to the corrupt, this illumination of the human mind may indeed be a source of alarm; but to rulers it should constitute an object of exultation and glory; for it will be in vain to stop the rapid career of freedom when knowledge is its precursor, the nerves of opposition must be smote and withered, and although the prejudiced and the confident may view the storm at a long distance, like the cloud of Elijah, of the size of a man's hand, it may increase and become fearfully dreadful and big with trouble, and with danger obtruding a sanguinary scene upon the reluctant eye, blackening with dismal augury our future prospects, and chilling with the damp of death every festive feeling. Anticipate then the horrors of a universal subversion by a timely reform, and let the sense of that knowledge which hath meandered into the solitary hamlet, and which hath provoked such a general inquiry on government and morals, as was never before known, be a seasonable warning to lay aside injustice, and encourage the propagation of useful truths. Mankind have rights undoubtedly, and if they are denied the just exercise of them, they will be claimed, not in the humble tone of suppliants, but in the haughty tone of dictators. The constitution of this country, in my opinion, guarantees those rights, and if it were administered, as I think it ought to be, I do believe, from the nation having reached so high a pitch of civilization, and having, within its bowels, the means of prosperity, it would be the freest and the happiest nation of the earth. The great and mighty change of sentiment which is electrifying Europe, hath not passed over this country. Already the minds of the people of England are veering towards the polar star of truth, and the general voice of the people is already reprobating the destructive effects of this war. Already they acknowledge the necessity of a reformed representation as the only means of saving us from ruin. At such an epoch, when old systems are received with great caution, and when thrones are vibrating on the precipice of destruction, it doth not bespeak wisdom in government to cry down and punish the efforts of the well-intentioned. It is a measure hostile to its own security; but if I must yet be doomed to languish out the most precious moments of my life in a prison, fatal as it must be to my interest, blasting every [illegible]

hopes, and sinking me down completely into ruin, my mind shall be equal to the task—it shall bear with calmness and serenity the worst of ills, in support of a cause whose basis is truth, and whose object is the liberty of my country.

EVIDENCE FOR THE DEFENDANT.

William Clarke sworn.—Examined by *Mr. Hotham.*

Were you a member of the Constitutional Society?—I was.

In the year 1794?—I was.

Were you a member of the committee?—I was.

Do you remember the agreement for the meeting at the Castle-Hill?—Certainly.

When was it made?—You know the date—the second of April—it might be a day before or a day after.

Were you in the committee when it was proposed and agreed upon?—I was.

Was Mr. Yorke there when it was agreed upon?—Certainly not.

Was the matter debated at that time in the committee or not?—It was.

Do you happen to know where Mr. Yorke was at that time?—I believe he was certainly at Newhill at Mr. Paine's.

How far is that off?—About twelve miles from Sheffield

But you are certain, you say, he was not in the committee at the time when the question was agitated, and the proposal agreed upon?—I am certain he was not, and that the committee understood that he was not in the town, but at Mr. Paine's.

Did you happen to hear the speech upon the Castle Hill?—I did.

You have read one of these printed books?—Yes, I have.

The speech contained in the printed book—was that the speech spoken by Mr. Yorke or not?—Certainly not.

How far were you from Mr. Yorke at the time that he spoke it?—About six or seven yards.

I find a sentence in that speech in the printed book that—"the day is at length arrived when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity."—Was that sentence made use of by Mr. Yorke?—Certainly I shall never declare that it was; but as far as I can possibly recollect, as a man that regards the oath put to him, it was not.

Was the expression "slink scowling back to the cave of obscurity," mentioned by Mr. Yorke?—I believe it was not.

Should you have recollected such an expression if it had been made use of by Mr. Yorke?—Most probably I should.

In another part of that speech, it is stated in the book, "When such a revolution of sentiment shall have dispersed the mists of prejudice, when by the incessant thunderings from the press the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us, then the commanding voice of the whole people shall recommend the 558 gentlemen in St. Stephen's Chapel to go about their business." Was that sentence made use of as it stands here?—I believe not; and for this reason, that when Mr. Yorke came to the chair, which was desired by the people, he began with saying he should be particularly guarded—that he should broach or set forth no new doctrine—that he would take care that spies and informers should take no advantage here ———Says he, "I hold up in my hand a volume of Mr. Locke."—Another reason was, as he had had very little opportunity, being called unacquainted with the subject; he said, what he did say should be particularly guarded, and he positively said, in one of the committee meetings, when requested to take the chair, that he should confine himself to the advertisement that we had put out previous to his coming among us.

Do you know any thing whether he was desirous to have this meeting called, or had he an objection to it?—I know that he had an objection to it, because he had had no notice of it?

You heard the speech Mr. Yorke made upon the Castle-Hill?—Yes.

What was the general tendency of that speech—was it to inculcate peace and good order, or inflame the minds of the people?—I do not remember much of the particular passages or words to speak them precisely.

I ask you a general question, was it a speech calculated to establish peace and good order, or to excite commotion?—Perfectly; I think Mr. Yorke a man that would hold out doctrines that would promote peace and good order; and, in my opinion, that was particularly calculated to promote peace and good order.

Have you known Mr. Yorke some time?—Yes.

From what you have known of him, do you conceive him a person likely to raise commotions or to preserve the peace?—Very different from raising commotions.

You were a committee man; do you remember any thing of a motion for a petition to parliament for a reform?—I do.

Now, was, or was not a motion to be brought forward for the purpose of being rejected?—I contradict it in *toto.*

What did pass in the committee, with respect to that motion?—I say that the discussion of that business was to this effect, that as we had petitioned the House of Commons, and they had rejected the petition we had sent—that there were many and strong arguments against a petition to the House of Commons; but, upon the whole it was contended that a petition should be attempted.

Was Mr. Yorke there at the time when this discussion took place in the committee?—He was not.

We have heard a great deal of arms—have you heard any thing about arming from Mr. Yorke?—I never heard any thing about arming.

William Clarke cross-examined by Mr. *Law*.

As all your committee were so hot for a petition, how came it that nobody seconded poor Broomhead, but left him in the lurch?—That I have nothing to do with.

What are you?—A cutler.

Do not you exhort a little now and then?—No.

Had you any pulpit business?—I tell you that I have not.

That speech, you say, differs essentially from the speech that was uttered?—Yes.

You say the speech uttered was applicable to the purposes of peace and good order?—Yes.

Is that speech that has been printed so?—I think not.

Now, how came you then, after you knew that such a spurious thing as you represent had been published, not to let Mr. Yorke know of it that he might call them in?—Because I thought he was a better judge of his own business.

Did not you all look upon Mr. Gales, who printed it, as a bad man afterwards?—I do not know that he published it.

Would you have me believe that you do not know that?—I would.

Where did you get your own copy of it, if you had one?—I bought it at Mr. Gales's shop.

Was Mr. Gales present at this meeting?—Yes.

Did not any body think of reproaching Mr. Gales for selling in his shop a thing that was a scandalous account of his friend's speech?—I do not know that any body did.

You did not reprove him for it?—No.

And you never made any complaint about it?—No.

Do not you think he was a gross libeller in putting out such a thing? Go along, man, it is impossible to believe a word you say.

George Kent sworn.—Examined by Mr. *Hotham*.

You were a committee-man of the Constitutional Society in the year 1794?—Yes.

Do you remember any thing of the proposal for the meeting on the Castle-hill?—Yes.

When was that?—On Wednesday, the 2nd of April, 1794.

Where was it proposed?—In the committee room.

Was the matter agitated there, or proposed and adopted immediately?—There was a good deal of discussion took place upon the motion.

Was Mr. Yorke there at that time?—No, he was not.

Do you happen to know where he was at that time?—Yes; I believe he was at Newhill, at Mr. Paine's.

When did the advertisement come out?—It came out on Friday, in Mr. Gales's paper.

You attended constantly a committee, did you?—Yes; I was present Wednesday night, Thursday night, and Friday night.

Was he ever in the committee room before that advertisement appeared?—No; he was not there either on the second or on the third.

Were you present when Mr. Yorke was acquainted with the meeting being fixed for the 7th of April?—Yes.

Did he approve of the meeting being called, or not?—No, he did not.

Now, we have heard a great deal of Davison; was he a committee-man?—No, not at the time that I was; nor I never heard that he ever was.

Was he in the regular habit of attending the meetings of that society?—I never heard that he was; to my own knowledge I never saw him in any meeting, public or private.

Did you use constantly to attend the meetings of the society?—No; I did not attend the committee meeting regularly; but, during Mr. Yorke's stay in Sheffield, I never omitted, I believe.

Were you in the committee room at the time when the motion was agitated about the petition to parliament for a reform?—I was.

Was that motion proposed for the purpose of being rejected?—No; it was simply proposed and carried after a little discussion.

In the committee room you mean to say?—Yes.

Was Mr. Yorke there, or not?—No, he was not; these resolutions passed on Thursday night for a motion of that nature to be made at the public meeting.

Were you at the Castle-hill on the 7th of April?—Yes.

Do you know whether Mr. Yorke spoke by appointment, or how it happened that he came to speak?—No, he did not speak by appointment; it was quite an accidental thing.

Tell us how it happened that he came to have the chair?—On the 7th of April, when the time commenced that was appointed for the meeting, Mr. Yorke came to the spot of ground, and a great many thousands assembled at that time; and immediately when it was known that Mr. Yorke was without the ground, a great noise was directly made from all quarters—Mr. Yorke—Mr. Yorke in the chair! and the crowd made an opening for him, and he was pressed forward.

Did he seem to do it of his own will as a thing he wished to do, or did he do it to oblige the people there?—It appeared to me that he condescended entirely to the wishes of the people.

You have read a printed book of the proceedings?—I have, very lately.

Now, from the recollection that you have of the speech of Mr. Yorke upon that day, is

it the same?—It is not—it is materially altered.

Did he or not make use of such an expression,——" Slink scowling back to the cave of obscurity."—No—if he had made use of such an expression, I think it could not possibly have escaped me.

What was the general tendency of that speech of Mr. Yorke—was it to excite commotions, or of a peaceable nature?—I believe the general tendency of that discourse, which appeared to me at that time, was to conciliate the minds of contending parties, and to remove all that prejudice that had seized the minds of many persons with regard to a reform in parliament.

Was there any thing made use of in that speech that could induce you to believe that he intended any violence should be made use of?—I believe there was none.

Did you conceive that speech, or any part of it, to be intended to traduce and vilify the House of Commons or not?—I did not.

You have known Mr. Yorke for some time, I believe?—Yes, I have known him several years; I have known him from the time he first made his visit at Sheffield.

Now, in all the conversations you have had with him, and the general tenor of his conduct, was he a man likely to raise commotion in the kingdom?—I cannot believe him capable of it; if he had, I am sure I would not have associated with him.

George Kent cross-examined by Mr. *Wood.*

What business are you?—A scissar-manufacturer.

How long have you been acquainted with Mr. Yorke?—Since March 1793.

Did you often attend your meetings?—When he was in town.

Where did he lodge when in town—with Mr. Gales the printer?—I do not know any thing at all about that, not from my own knowledge.

Where did you generally see him?—At meetings.

Methodist meetings?—No, I saw him several times at our private meetings.

He was always silent at those meetings?—No, he was not always silent; but he never interfered in our private business.

Did he never get into the tribune?—I do not know what you mean by a tribune.

Upon your oath you do not know what a tribune is?—You may call it what you please.

I will call it a pulpit—what do you call it yourself?—Chair or eminence. At the public meeting he was always advanced upon something that was above the people.

Now, you say he was not at the committee meeting upon the 2nd of April?—No.

I hope Broomhead was there?—Yes; I think he was.

Do you think he knew what passed at that meeting?—Yes; I think he does.

Perhaps he was your secretary—was not he?—Yes.

And perhaps he drew up your resolutions?—No, I do not believe he did.

Did you draw them up?—No; nor I did not see the hand that drew them up.

But did not you know that they were signed by the hand of William Broomhead, secretary?—Yes.

You meant to have your meeting on the 7th of April, without any application to Mr. Yorke to attend it?—No, we sent to Mr. Yorke—he was 12 miles off.

And then you sent to inform him of the resolution—Was this the resolution—" Resolved, that citizen Henry Yorke be requested to draw up the petition to the king, for the total and unqualified abolition of negro slavery, and that he be requested to attend to support the measure." You sent for him?—Yes, to attend the meeting.

And he told you he would attend the meeting—Did not he?—He did make a conditional promise.

Did you send him a copy of your resolution?—Not that I know of.

When he came you told him what you had resolved on?—Yes.

That you had resolved to petition the House of Commons?—Yes.

Then how happens it that you did not?—We told him we had passed a motion for that purpose.

When did you tell him that?—On the Friday night.

Before the meeting upon the Castle Hill?—Yes.

You told him then that you meant to petition the House of Commons?—Yes.

And did he approve of it?—He did not object to it, because he did not interfere in our business.

I suppose you had a petition prepared?—We had a motion.

But had you a petition?—I do not think we had; I believe we had not; there was a motion made at the public meeting for their approbation.

But you had not prepared their petition?—No, there was not time for it.

You had your petition to the king ready?—Yes.

Did citizen Yorke draw up that petition?—I do not know.

You had no petition to the House of Commons?—No, it was left for the sense of the people.

And it was put and nobody seconded it?—I do not know that any body did.

You did not hear that it was made for the purpose of being negatived?—I never heard any thing of that.

You were not in that secret?—No.

Were you in the committee when you packed up the box of speeches and sent them to London?—No, my time at that time was just expiring; I did not know any thing about it; my time was just out.

You were very angry with Mr. Gales for printing so false an account of it?—I had never seen a printed account till I received my subpœna.

And you were upon the committee?—Yes.

You mean to say you never saw this printed account till you were subpœnaed upon the trial?—Yes.

George Kent re-examined by Mr. *Hotham*.

Did you ever hear Mr. Yorke at any time talk about arms?—I never did.

Do you know the reason of Mr. Yorke's coming first to Sheffield?—Yes, by request.

By request from whom?—From the society.

To whom did you make the application?—To the society at Derby.

What society is that?—A society for constitutional knowledge.

Is that society in existence now, or broke up?—I cannot tell.

I believe from the time of Mr. Yorke's first coming to the second, a good deal of time elapsed—how happened it that he came a second time?—I really do not recollect.

Then I believe he came a third time; do you happen to know that?—I conceive, as I was informed, by a formal request from all the friends of reform at Sheffield.

Whom were you informed by?—Many of the friends.

You were a member of the committee?—I was.

Did the committee come to any resolution to send for Mr. Yorke the last time that he came?—I do not know, that was the 4th of April 1794 we sent to him, and put him in a state of requisition.

William Clarke called in again.

Mr. *Yorke*.—When you were a member of the committee do you remember a proposal of the committee to send for me from Lancashire?—Yes.

Do you remember any of your committee writing to me to that effect?—I believe Mr. Gales wrote for you; he was ordered by the committee so to do.

Mr. *Yorke*.—Was Gales a member of the committee at that time?—Yes.

And he generally wrote the letters for you?—Yes.

Mr. *Hotham*.—Are you acquainted with Mr. Gales's hand-writing?—I believe I am.

Look at that letter, and tell me, if that is his hand-writing?—I believe it is.

Mr. *Law*.—I object to the letter being read.

Mr. *Yorke*.—By the very same reason that you read the letter from Davison, I am authorised to have this read.

Mr. *Law*.—It has never been proved to have been received.

Mr. *Yorke*.—Nor was Davison's proved to have been received.

The Court admitted the objection.

Edward Oakes sworn.—Examined by Mr. *Hotham*.

Were you a member of the committee of the Constitutional Society of Sheffield?—I was.

Do you remember any proposal taking place respecting the meeting of the 7th of April in the committee?—I recollect very well a proposal made in the committee for the meeting on the Castle Hill.

Was any question made about it in the committee?—Yes.

When was that?—Three or four days previous to the Castle Hill meeting.

Do you happen to recollect what day of the month it was?—I think it was about the second.

Was Mr. Yorke in the committee-room at that time?—He was not.

Do you know where he was at that time?—I believe he was out of the town.

Were you in the committee-room afterwards, when the motion was made for the petition to the House of Commons for a reform?—I believe I was.

Was that motion or not to be made for the purpose of having it rejected or not?—I believe not.

Was Mr. Yorke at the meeting of the committee when the agreement took place to make that motion?—I believe not.

Was he present upon the Castle Hill upon the 7th of April?—He was.

Did you happen to have any conversation with Mr. Yorke before you went there that day?—I was in Mr. Yorke's company at Mr. Gales's previous———

Mr. *Law*.—That is not evidence.

Mr. *Hotham*.—Have you read the account of the speech in the printed books?—I have not read the whole of it, but I have heard a great part of it read.

Which part of it was that?—I have read different parts of it at different times, so that I cannot particularise any one part of it at present, but I have heard read within a few weeks ago, the greatest part of it.

Did you conceive that part of it which you did hear read, to have been spoken by Mr. Yorke?—That part that I read I believe to be totally dissimilar to what Mr. Yorke delivered upon the Castle Hill.

Do you recollect if any such expressions were made use of in the speech of Mr. Yorke as "Slink scowling back into the cave of obscurity;" if such expressions were made use of, should you not have recollected them?—They are so strong that I believe I could not have missed recollecting them.

What was the general tendency of the speech which Mr. Yorke made?—The general tendency of Mr. Yorke's speech at that time which I conceive of it, was peace and good order.

In that speech which Mr. Yorke made [illegible]

that occasion, was there any thing that conveyed to your mind any idea of his wishing that violence should be made use of?—Not at all.

At that meeting, was there not a word said by Mr. Yorke relative to the people's arming at that meeting on the Castle Hill?—I do not recollect any such expression, and I believe no such expression was ever made use of; for Mr. Yorke, I believe, never was more collected, and spoke never more upon his guard than he did at that meeting.

Edward Oakes cross-examined by Mr. *Topping*.

What business do you follow?—I am in the plated line.

Were you a member of the committee some time?—I was.

Were you a member of the committee at the time when they approved of Paine's Rights of Man?—I was not.

You swear that you were not a member of the committee at the time a resoultion of approbation of Paine's Rights of Man passed?—I was proposed, but did not attend as a member of that committee.

You did understand that the committee had come to such a resolution?—They had come to such a resolution of approving of Paine's Rights of Man previous to their being proved a libel.

Then I take it for granted they rescinded them immediately upon their being so proved?—Upon my word, I do not know what you mean by the expression.

Were they expunged from the books of the society? I take it for granted that you, finding out that they were judged to be a libel, proposed their being expunged?—I never did.

Nor any body else, I believe. You did see Mr. Yorke at Mr. Gales's just before the meeting at the Castle Hill?—Yes, I did.

Who was along with him there?—He was dining at Mr. Gales's; Mr. Gales was present, and a Mr. Warwick was present; and Mr. Camage came into the room.

Were you at the meeting previous to the meeting at the Castle Hill; you were present at Mr. Gales's, when Gales, Mr. Yorke, and Mr. Camage were together?—Yes.

It was proposed and agreed to at this meeting upon the 2nd of April, that there should be a petition for a reform of parliament?—It was agitated, but not finally settled, that there should be a petition to the House of Commons.

You told that gentleman it certainly was not agreed to be rejected?—There was not a final decision about it.

Was the decision that it should not be seconded?—No, there was no new decision at all about it, because I believe no body stepped forward to second it.

Do you recollect every person present in the committee?—No.

You will then take upon you to swear that Mr. Yorke was not there himself?—I positively believe that Mr. Yorke was not there.

Will you positively swear that he was not?—I believe he was not.

Have you recollection enough to swear positively that he was not; you cannot recollect all that were present; upon your oath Mr. Yorke was not there at that time?—I can say no farther than I believe he was not.

You heard the greatest part of this book read, how soon might you hear it read after it was published?—I did not hear it read immediately after; I had not heard it read the greatest part of it till within these few days.

Were you much pleased with the speech you heard at the Castle Hill?—Yes.

Were you anxious to see the account of it as soon as published?—Certainly.

Then when it was published by Mr. Gales your curiosity excited you to see it?—As soon as I knew that it was published.

Then immediately upon its coming out, your curiosity excited you to know if it was the same speech?—Yes, and I found it totally dissimilar.

Did not you speak to Mr. Gales about it?—No.

Do not you know Mr. Gales was the publisher of it?—I do not know it.

I ask you upon your oath, if he was not the man to your knowledge that published it?—I can, with the greatest safety, swear that I did not know it.

Did you not buy one at Mr. Gales's?—No, I did not.

Where did you get that which you had?—I can positively say I had not it there, and I believe my father-in-law brought it to my house.

At that time did he not tell you he had it from Mr. Gales?—No, he did not.

Is he here?—No.

Perhaps you have seen a copy of the manuscript?—No, I have not.

You can perhaps tell us the parts in which it agreed with Mr. Yorke's speech?—I have already said it bore no sort of resemblance; for the speech upon the Castle Hill was a speech which tended to peace and good order.

Then the printed one is not so?—Some part of it is much stronger than Mr. Yorke's expressions.

Did Mr. Yorke, in his speech upon the Castle Hill, say any thing about the 558 gentlemen in St. Stephen's chapel, and their being sent about their business?—I believe Mr. Yorke made mention of the 558 gentlemen in St. Stephen's chapel.

Being sent about their business—was that mentioned?—I believe it was.

Then so far it is not totally dissimilar.—Do you remember any thing of combustible ingredients—that must alarm you a little?—No.

Or political explosion?—I will not swear it. I believe he did not make use of such an expression.

Will you swear he did not?—To the best of my recollection, I believe he did not.

Did he use any such expression as grand political explosion?—To the best of my recollection, I do not believe that he did.

Any thing about burying despotism—that you do not recollect?—No.

Any thing about the grandeur and dignity of freedom?—No; I do not recollect that.

But you will not take upon yourself to swear that no such words did pass?—No, I will not.

Now, this motion that was made, that was not decided whether it should be carried or not; when it was made it fell to the ground, nobody seconded it?—I do not remember that any body did.

And you are a great friend to reform in parliament and petitioning?—Yes, and I hope I ever shall be.

Then how came you neither to second it nor get any body else to second it, nor get it put in the shape of being put to the meeting?—Because I did not feel myself free to do it at that meeting.

I ask you, if your reason for not being free to do it was not because you had been at the committee meeting previous?—Do you mean the Castle Hill meeting?

You said you did not consider yourself free to vote for that motion upon the Castle Hill. Now, I ask, if the reason of your not being free to vote for that was not, that, at the previous meeting, it was resolved not to be seconded?—I do not recollect any such thing, nor I do not believe it was.

Now I ask you, in so many words, whether you have never sworn that it was resolved at that committee meeting, previous to the meeting of the 7th of April, that this motion should not be resolved, or to that effect?—I am sure I do not recollect it.

Have you not sworn, that it was resolved at that committee meeting, not to petition the Commons House of Parliament again?—I do not recollect whether I have sworn it.

Then if you have so sworn it, it is all falsehood?—I do not recollect it.

Mr. *Topping*.—But if you have so sworn, is it true or false? You can easily answer that if you will—'tis a very plain question?—Your silence may be better than your answer, and may save you, and therefore you may go along about your business.

Mr. *Yorke*.—It is inhuman to treat a sick man in that manner; I requested he might have a chair, but it has not been brought, though ordered by his lordship.

Edward Smith sworn.—Examined by Mr. *Hotham*.

Were you in the committee on the 2nd of April, 1794?—Yes, I was.

Do you recollect a proposal made for calling the meeting of the 7th of April?—Yes, very well.

It was made in the committee room?—Yes.

Was the matter much agitated there?—Yes; but it was settled—it was agreed to advertise to call the meeting.

Was Mr. Yorke there at the time it was agreed?—No.

Where was Mr. Yorke at that time?—Out of town, we understood.

Do you recollect when Mr. Yorke was informed of it?—It was agreed to send for Mr. Yorke.

When did you see Mr. Yorke after [illegible]? I think it was upon the Friday.

When you saw him, did he, or not, approve of what the committee had done?—Not altogether; they proposed for him, before he came, to take the chair, which he refused; when he came, he said he was unprepared, he had rather take somebody else of the town; that he was not an inhabitant of the town, and so on.

Were you in the committee when a motion for petitioning the House of Commons for a reform was made?—It was agitated in the committee.

Was any agreement made that a motion should be made for the purpose of being rejected?—No.

Was Mr. Yorke present when that motion was made for it?—No.

Were you, on the 7th of April, on the Castle Hill?—Yes.

How far were you from Mr. Yorke?—Five or six yards.

Have you read this speech, supposed to have been spoken by him, in the printed book?—I did read it at leisure time, some time after it was printed.

Does that contain the substance of what Mr. Yorke spoke or not?—No; it does not.

Did Mr. Yorke, or not, make use of this expression: "slink scowling back into the cave of obscurity?"—No.

Then you say the printed book does not contain the substance of what Mr. Yorke said, nor did you hear "slink scowling back into the cave of obscurity" made use of?—No, I did not.

If such an expression was made use of, should not you have recollected it?—Most certainly I should.

What was the general tendency of the speech Mr. Yorke made?—He first addressed the people in this manner: he said, there were people came out of curiosity, and some for spies, and so on; and therefore he would be upon his guard, and Locke should be his guide chiefly.

Was it to promote peace, violence, or what?—To promote peace and good order.

Was there any thing in that speech upon the Castle Hill that conveyed to you any inclination in the mind of Mr. Yorke to promote disturbance?—None at all.

Did you collect, from what he said, that he meant to traduce the House of Commons?—Nothing but a reform.

Edward Smith cross-examined by Mr. *Law.*

He began with Locke and ended with Locke?—He said he should make that his guide.

You are a judge, I know, of what is orderly and good government; what has been done with that volume of Paine's Rights of Man you had at the Old Bailey?*—I had not it there.

But you said you thought well of it?—I did not.

You say you did not make use of the words "thought well of it?"†—Not altogether; that was the word I said.

Do you mean to say that you put in a qualifying word?—You seem to want to take notice of what I say.

Did you put in the word "altogether" when I saw you last?—I did.

Do you recollect any thing about the 558 gentlemen?—Yes.

What was to be done with them?—When there was a revolution of sentiment, when the people were enlightened, then these 558 gentlemen might be sent away, and put in fresh ones, more fair, into their place.

Repeat it?—That when the people were enlightened they might go away and others put in their room, and that there should be a reform in the representation.

It was a recommendation of that which was peaceful and orderly?—Yes.

Whether orderly, or not so, orderly as Paine's book, or a little of that twang about it?—I do not understand you.

Was it as orderly as Paine's book?—He thought we had a right to equal representation.

I ask you what he said?—I understood the plan just as I tell you.

Was it as orderly a performance as Paine's book?—Paine's book and that may not altogether agree.

In what does the principle differ—one reform, and the other revolution.—Is that it?—Yes.

How long was this published before you saw it?—I dare say two or three months.

You know of these being sent to London in a box?—No, I do not.

Were not you vastly shocked about scowling, and all that in it?—I was surprised.

What did you say to Mr. Gales.—Did not you say he was the saddest rogue in the world to publish such an account of Mr. Yorke's speech?—I do not know much of Mr. Gales.

Now, name that created being to whom you mentioned that it was dissimilar?—Some of my shop-mates.

Did you make any objection to any thing but the scowling and the cave of obscurity.—"Now, I trust, my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial, not a melioration of those enormous abuses which would be to compromise with injustice; but, I trust, they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature?"—That was not in.

About "an imperious tone that would take no denial?"—I do not remember it.

"Combustibles" probably not?—Certainly not; I thought it a very peaceable speech.

Was he called by a voice to the chair?—Yes.

A heavenly designation?—No; he was called to the chair——

Mr. Justice *Rooke.*—Did you say, at Mr. Gales's shop, that there was some difference?—No, I only said to my shop-mates that there was a difference.

Mr. *Law.*—Where did you get your copy of that speech?—I borrowed it of one Lodge.

And you lent him the Rights of Man?—No.

Thomas Needham sworn.—Examined by Mr. *Hotham.*

Were you present at the meeting upon the Castle-hill?—Yes.

How far were you from Mr. Yorke?—About ten yards.

Have you read that printed account?—Yes.

Is that the substance of the speech delivered by Mr. Yorke?—No, it is not.

I see in that book an expression of "slink scowling back?"—I do not recollect Mr. Yorke making use of any such expression.

Should you have recollected it if he had made use of it?—It is a very particular expression, and I think it would have struck my mind if he had made use of it.

Do you recollect, at any time, Mr. Yorke's mentioning Paine's Rights of Man, or Paine's books, or any of his publications?—I never heard him recommend any books, in any meeting, but two.

What were they?—One was Locke, the other was———I forget the author's name; but it was upon crimes and punishments.

Mr. *Yorke.*—Was it Beccaria?—I believe it was.

Mr. *Law.*—You read it in the original Italian, I take it for granted.

Mr. *Hotham.*—Did you ever hear him express any wish to change the constitution?—No, I only heard him wish for a reform in the Commons House of Parliament; not to change the constitution in its original purity.

Were arms ever mentioned by Mr. Yorke?—I never heard him mention arms in my life.

Now, from what you have heard of the speech on the Castle-hill, did you conceive it to be a speech recommending peace, quiet-

* See the cross-examination of this Edward Smith by Mr. Garrow, on the trial of Thomas Hardy, *ante*, Vol. 24, p. 1040.

† See Vol. 24, p. 1042.

ness, and good order, or one tending to set people by the ears, and embroiling the nation?—I believe it to be a speech, the tenor of which recommended peace and good order.

Were you acquainted, for any length of time, with Mr. Yorke?—No, the first time I ever heard him was in 1793.

What was Mr. Yorke's general demeanor?—I never saw any thing in Mr. Yorke's general demeanor but what tended to instruct mankind, and to recommend peace and good order.

Were you at the Barrel at the time Mr. Yorke was there?—Yes.

Thomas Needham cross-examined by Mr. *Wood.*

You are not a committee-man?—No.

You never attended their meetings?—No.

He recommended peace and good order in the speech?—Yes.

What? you were to turn out the 558 gentlemen peaceably and orderly?—No.

Did he not say any thing about them?—Yes, I did hear him say something about it.

To send them about their business—was it not?—I cannot recollect how he spoke it; but I know there was something in it about St. Stephen's.

You understand what that was, I suppose?

Witness.—I understood that it was the place where the representatives met.—Do you mean that branch of the government?

Mr. *Wood.*—Yes; that they were to be turned out of St. Stephen's chapel?—I heard something, but I cannot positively say what the sentence was.

Nor you did not know the meaning of it?—I did not understand him to mean to cut off the present government; I understood a reform in the representation.

Did not you want to get into St. Stephen's Chapel yourself, now?—No.

What sort of men would you put in the room of them—your own society, I suppose?—No—no such thing.

Do you remember any thing about the sovereign people—the people are the sovereign—they have disgraced themselves by petitioning?—No, I do not recollect any thing of that kind.

You cannot remember any thing?—Yes, I can; Mr. Gales read a petition to the king, respecting Mr. Muir and Mr. Palmer.

Any thing about a revolution?—He showed the dreadful consequences of a revolution.

Did not he say he was concerned in revolutions?—No.

Which was the revolution he reprobated—1688, was it?—No; revolutions in other countries—that they were fatal.

Did you see that in the speech?—No.

Has Mr. Yorke read it to you lately?—No; I did not come here to learn my lesson, but to tell the truth.

Have you been with him lately?—His counsel examined us in his room.

Did he read it to you?—No, there was a person at the inn I am at, that read some of it, Mr. Moses Taylor.

Who is he?—A person that comes from Sheffield, and we wished to hear it read.

And you could fix upon no passage that you heard Mr. Yorke say?—Yes, that about the 558 gentlemen——I recollect he said something about them, but I do not recollect that sentence.

Where did you get it—at Mr. Gales's?—I got it, I believe, at our house where I live—I did not purchase it.

Where do you live?—At one John Barton's.

Ebenezer Rhodes sworn.—Examined by Mr. *Yorke.*

Do you remember being at the Castle-hill upon the 7th of April?—I was.

How far off were you from me?—From eight to ten yards.

You heard me distinctly?—Yes.

Can you recollect any of the discourse?—I recollect the spirit of the discourse. You commenced by stating, that you imagined there were some spies present—that you should be very guarded, with respect to the expressions you might make use of on that day; and, you likewise declared, you did not mean to broach any new doctrines, and that you should defend the doctrine you should that day broach, from the writings of Locke, who had received 1,000*l.* a-year for writing that book, and had been preferred to the office of master of the Mint.

Did I speak of a reform in parliament?—Yes.

Any thing about levelling property?—You declaimed against it; said it was a very wild idea; that those only were the levellers who wished to reduce men to a level with the brutes.

Did you ever read this book, intituled "Proceedings of the Public Meeting?"—Yes.

When did you read it?—I believe in a day or two after it was published.

Did the speech upon the Castle-hill make any impression upon your mind?—It did.

Did you observe any difference?—Yes, a very astonishing difference.

Do you think if I were to read you any expressions that you could charge your memory with them?—I will read to you.—"Fellow citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed in their native ugliness, slink scowling back to the cave of obscurity; there, I hope, they will ever remain, the energy of Englishmen will no longer endure this strange uproar of injustice. I trust, my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial, no melioration of those enormous abuses would be to compromise with in I trust, they will demand the an

corruptions and abuses, and the restitution of the original rights of human nature."—Do you remember that?—I do not, nor I do not think any such expressions were used.

"Slinking back?"—No; I do not recollect it.

Nor any thing about scowling away?—No.

It having made an impression upon your mind, do you think you should be able to recollect it if you had heard it?—I think I should.

Do you remember this:—"It must be granted that this experience is important, because it teaches the suffering nations of the present day, in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce, with effect, that grand political explosion, which, at the same time that it buries despotism, already convulsive and agonizing in ruins, may raise up the people to the dignity and sublime grandeur of freedom."—I do not remember it.

Political explosion is an uncommon burst of speech?—I am pretty certain that political explosion was not made use of—I am as positive as a person fifteen months after can be, and having made no minutes of the speech.

Nor combustible ingredients?—I do not recollect it.

Nor burying despotism?—No.

Do you know a man of the name of Frith, a surgeon?—Yes.

Had you ever any conversation with him respecting me?—Yes.

When?—So late as last Saturday in the forenoon.

[Mr. Law objected to Mr. Yorke's going into that circumstance, not having examined Frith to it; the Court allowed the objection.]

Mr. *Yorke.*—Did you ever hear me say that government would pack juries?—I do not recollect that.

I am speaking solely of the 7th of April; if you had heard that circumstance it would have struck you?—It might, but not so strong as some other expressions.

Did you hear me say that the jury at Lancaster were corrupt, and would have convicted us; but the vile tools of administration had given it up?—I do not remember your mentioning any such thing.

Do you recollect my desiring the people to get arms on the 7th of April?—No; and I am very confident you did not desire the people to get arms; if any thing of that sort had been said, I must have observed it, because it would have convinced me that you were not the person I apprehended you to be.

And, pray, what kind of a person did you apprehend me to be?—I apprehended you to be an individual, much attached to the cause of reform; but never understood your ideas went any farther.

Do you remember this particular expression—"You behold before you, young as I am, about 22 years of age; a man, who has been concerned in three revolutions already; who essentially contributed to serve the revolution in America; who essentially contributed to that in Holland; who materially assisted that in France; and who will still continue to cause revolutions all over the world?"—You did not say so.

Will you take upon you, upon your oath, to say, you never heard such an expression?—I never did; I should have thought you a very wild fellow if you had.

I will read it to you again. "You behold before you, young as I am, about 22 years of age; a man, who has been concerned in three revolutions already; who essentially contributed to serve the revolution in America; who essentially contributed to that in Holland; who materially assisted that in France; and who will still continue to cause revolutions all over the world."—Turn to the jury and say, before God and your country, that you did not hear such expressions?—I can positively say, before God and my country, that you did not say any such thing.

What do you think was the general tendency of my speech upon the Castle-hill?—I conceive it was to advise the people to be very orderly in their conduct, to endeavour to disseminate political information, and that your ideas extended to no greater a degree than that, and by that means they would become sensible of any abuses in the mode of election or representation.

Then you thought the political knowledge I wished them to acquire, was the knowledge of their own country; not to teach them revolutionary doctrines, or the doctrine of the holy and immaculate guillotine?—No.

Ebenezer Rhodes cross-examined by Mr. *Topping.*

Do you remember something about levellers—"Those are levellers whose hands are dipped in the public spoils."?—I do not recollect there was any such thing.

Will you swear there was not?—No I do not mean to swear any such thing.

"Who assert impunity for crimes, and inviolability of persons."?—No; I cannot call such expressions to my mind.

You had the book a day or two after it was published?—Yes.

How soon was it published after the speech was spoken?—I cannot say; I should suppose about a week or two.

You saw the publication;—how did you get it?—I got a young man to call at Mr. Gales's shop for it.

An intimate friend of his?—Yes.

Mr. Gales published this?—Yes; they were sold at his shop, therefore he was the publisher.

Mr. Broomhead was your secretary; was not he?—Our secretary—I do not know what you mean.

Were not you one of the committee?—No, nor was I a member of the society.

Were you present when the box of them was sent to London?—No.

Did not you see the manuscript in Mr. Gales's shop?—No.

Did you see Mr. Gales soon after you got the printed copy?—I cannot say that I did see him within a week of the time.

Mr. Gales heard the speech at the meeting as well as you, I suppose?—I suppose so—he was there—I saw him at about the commencement of the speech, but did not see him after.

You saw Mr. Gales very near the tribune?—Yes, I did.

Were Mr. Gales and Mr. Yorke intimate? I believe they were.

You remember his lodging at Mr. Gales's, perhaps?—No, I do not, nor I do not believe he ever did lodge there.—I have some reason to believe he lodged elsewhere.

Do you remember such an expression as the 558 gentlemen?—I do remember the expression of the 558 gentlemen going about their business.

And St. Stephen's chapel, you remember?—Yes.

Cornelius Taylor sworn.—Examined by Mr. *Hatham*.

Do you know Dr. Frith?—Yes.

What did he say to you about the meeting?—He called upon me as he was going to the Castle-hill, and asked me, if I would go with him, and I told him no, I could not spare time to go; and when the meeting was over, he called in; I asked him how he liked Henry Yorke, he said, "extraordinary well, he perfectly agreed with all he said; and farther, that he was too mild a man to be of the Sheffield Constitutional Society, that he would soon be knocked off the list; only one thing he objected to, and that was, that the will of the people was the supreme law, which he objected to."

I wish you to repeat what he said to you?—He said "he liked Henry Yorke extraordinary well; he said, that he perfectly agreed with every thing that he said, and that he was too mild a man to lead the Constitutional Society; he agreed with every thing, but that the will of the people was the supreme law."

Cornelius Taylor cross-examined by Mr. *Law*.

How long was it before this meeting that you knew Mr. Yorke was to make this speech?—I did not know Henry Yorke.

Did you not know that he was to speak?—No; I cannot recollect any thing about it.

Mr. *Yorke*.—You were not a member of the society?—No.

You are an intimate friend of Mr. Frith's?

tinue to be still in habits of intimacy?—Yes, I have no enmity to-

Reverend Mr. *Warwick* sworn.—Examined by Mr. *Yorke*.

Were you present at the meeting on the 7th of April?—Yes, so near that I could distinctly hear you.

What induced you to go there?—Curiosity.

Are you a member of any political society in the kingdom?—Not any.

Do you recollect particularly the speech that I made that day?—They made a great impression upon my mind; but I never took particular notice of them afterwards, except one or two instances, which I have used often in your vindication.

What were those expressions?—Particularly declaiming against levelling principles, and producing several examples to shew the folly and wickedness of adopting any such system: that is the principle of what I introduced in your defence; but I can enter into the spirit of any passage that may be read to me.

Have you ever read that pamphlet?—I have.

When?—I never saw it till the day before yesterday.

Do you think what this book contains is a genuine account?—I never read it till the day before yesterday, and then was much surprised at the dissimilarity.

Did you ever hear such an expression as this—"Fellow Citizens; the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial—not a melioration of those enormous abuses, which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature."—Did you hear that expression?—Only one idea which I recollect in it at the latter end, the former I do not recollect at all—I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature; an annihilation and not a compromise, I understood it; a total annihilation of abuses, and not a consent to have them done away in part; that idea he certainly conveyed.

Mr. *Yorke*.—Do you not remember any thing about the cave of obscurity, fanaticism, and slinking and scowling away? You are a scholar, and a man of literature, and there is a great deal of metaphor about it.

Witness.—It is a remarkable expression—I did not hear it.

"It must be granted that this eagerness is

important, because it teaches the suffering nations of the present day in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which, at the same time that it buries despotism, already convulsive and agonizing in ruins, may raise up the people to the dignity and sublime grandeur of freedom."?—I do not recollect a syllable of it.

Upon your oath do not you recollect it?—It is perfectly new to me.

Do you recollect on that same day my making any mention that government could pack juries when they pleased?—I do not recollect.

If I had said it you would have recollected it?—I perhaps might.

Do you recollect these words—"You behold before you, young as I am,—about 22 years of age,—a man who has been concerned in three revolutions already; who essentially contributed to serve the revolution in Americca; who essentially contributed to that of Holland; who materially assisted in that of France; and who will still continue to cause revolutions all over the world."?—I believe if I were to say you made use of any such expressions, before my country and my God, I should be the most perjured man alive; and the vanity of the expression would have made such an impression upon me, I could not have forgot it.

Do you recollect my saying any thing concerning the trial at Lancaster, that the jury would have been corrupt enough to have convicted me, had not the vile tools of administration given up the business?—Something was said about the trial at Lancaster.

Do you recollect, upon your oath, my having desired the people to arm themselves at this meeting?—Never.

You never did?—Never, but the contrary.

Was not the general tendency of the speech to keep the peace?—Yes, or I never would have associated with you.

Were you often in company with me in private?—I was.

You used, I believe, to sift me, in order to see if you could make me out?—I endeavoured to learn your intentions, in order to see what the Sheffield Society were about.

You have generally heard that I was a man-butcher, fond of blood and slaughter?—I have heard you abused very much, and vilely traduced.

You have heard me traduced before you became acquainted with me?—Yes.

From your knowledge of me, so frequently seeing me in private, do you believe me to be a man inimical to the constitution, or unfriendly to peace and good order?—By no means.

Do you believe I meant any thing more than a reform in the representation of the people?—I could collect nothing from my knowledge of you but the direct contrary ideas; and I have often heard you say in private, that no one but a knave or a madman would think of bringing about a revolution in this country.

Rev. Mr. *Warwick* cross-examined by Mr. *Wood*.

You are a clergyman, I believe?—A Protestant dissenting minister.

How long have you been acquainted with Mr. Yorke?—In March 1794.

Have you been pretty much with him since?—Several times in his company.

How near were you to him when he made his speech?—Near enough to hear distinctly all he said.

How far were you from him?—Ten or eleven yards, or thereabouts.

Did you see Mr. Gales there?—I once saw him, and that was all; and I was hardly certain whether it was Mr. Gales or not.

He turned round, did not he, and addressed them in various parts?—Yes.

So that he had his back some time to you?—Yes, some time, and some time his face.

You heard something about levelling and levellers. See if this is any thing like what you heard: "It is said we are levellers, but those are levellers who wish to reduce man to the condition of the brute, guided by passion and uninfluenced by reason."—I cannot recollect "guided by passion and uninfluenced by reason;" but the rest I do recollect.

Did Mr. Yorke ever tell you he would print his speech?—I never heard that he intended it.

Had you any conversation with him about it?—No.

Rev. Mr. *Moses Taylor* sworn.—Examined by Mr. *Yorke*.

Were you present at the meeting of the Castle-hill on the 7th of April?—Yes.

How far from me?—Five or six yards.

Did you hear distinctly every thing I said?—I did every part of your speech.

Did it make that kind of impression upon your mind that you can give any account of that speech, its tendency and spirit?—Certainly, I understood that your principles were of a moderate kind; that you insisted upon the necessity of reform in the Commons House of Parliament; that, in order to obtain this, it was absolutely necessary that the people should go on in the same manner as they hitherto had done, that is in endeavouring to inform the public mind to the full extent of their power; and when, in consequence of a general information, mankind should be sensible of those things which were considered as abuses, they would then no doubt be unanimous in calling for a re-establishment of those things which were their rights, as the constitution was in its original formation.

Do you recollect my saying any thing about levelling principles, and recommending them to level all property?—No, I recollect you mentioned levelling, and said, that a man who

would pretend to bring forward levelling principles, is an absurd character indeed; for you said, suppose there was a levelling of property to-day, mankind, in this respect, would not be levelled to-morrow.

Have you ever read that pamphlet?—I have read all, a few passages excepted, the other day at the public-house we were at.

Do you think this is a just representation of the speech I made at the Castle-hill?—I think there are various things in that speech which you did not deliver.

Then you consider it as dissimilar?—Yes, in several points.

Do you remember this? "Fellow-citizens; The day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there, I hope, they will ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of religious and political imposture, and that their decisive and manly conduct will command, in an imperious tone, which will take no denial,—not a melioration of those enormous abuses, which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature." Do you remember that?—I believe that never was expressed at the Castle-hill as it is there.

Do you remember any thing about the tinsel trappings, and the slinking and scowling away?—No.

Do you think if it had been used by me, you could now charge your memory with it?—I think I could.

Upon your oath you do?—Yes.

Do you remember this? "It must be granted this experience is important, because it teaches the suffering nations of the present day in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce with effect that grand political explosion, which at the same time that it buries despotism, already convulsive and agonizing, in ruins, may raise up the people to the dignity and sublime grandeur of freedom."—I never heard "political explosion."

Nor combustibles?—No; as far as I can charge my memory with your speech, I never heard such words drop from your lips.

You would certainly have remembered this flight, of raising up the people to the dignity and sublime grandeur of freedom?—I remember a speech very much like it.

Not as referable to this sentence of the political explosion?—No.

Do you recollect my desiring the people to arm?—I believe you never said a word about this?—I will undertake to recommended arms at that

If I had, you would have recollected it?—I certainly should, because I should have abhorred such an act.

Do you remember this: "You behold before you, young as I am, about twenty-two years of age, a man who has been concerned in three revolutions already; who essentially contributed to serve the revolution in America; who contributed to that in Holland; and who materially assisted in that of France; and who will still continue to cause revolutions all over the world." Do you recollect any such expressions?—I never remember a word of the kind.

Will you undertake to swear, before God and your country, that you never heard it?—I will venture to swear that such a sentiment was never brought forward at that meeting.

Do you recollect my saying that the government could pack juries when they pleased?—I do not remember that you did.

Do you remember my speaking about my trial at Lancaster, with Mr. Walker of Manchester?—You might mention it.

Do you remember this, that the jury would have convicted us, had not the vile tools of administration given it up?—I do not.

Do you think you should if I had used it?—I think I should.

The general tendency of my speech was moderate?—Yes.

Recommending peace?—Yes, sometimes you expressed yourself in a strong manner; but I never understood that you meant to excite people to any kind of disorder; you recommended peace and good order, and that whatever abuses existed, they must obtain the removal of those abuses in a manner consistent with the well-being of society.

Rev. *Moses Taylor* cross-examined by Mr. *Law*.

Where do you live?—At Sheffield.

Are you a dissenting minister?—Yes.

How long have you lived there?—Eight or nine years.

Did you know Mr. Yorke when he resided there?—I never saw him again till I saw him in York.

And his speech being so very peaceable and orderly, did not it beget in you an inclination to be better acquainted with the author of the speech?—No, my thoughts were turned on other subjects.

To heaven, perhaps?—Yes.

Perhaps your thoughts at the time were after some wild goose chase; are you sure you were attending to him?—Yes.

Were not you talking about or thinking of something else?—No, I was paying the most profound attention.

Of what description are you as a dissenting minister?—A Calvinistic Independent.

Have you a church of your own?—Yes.

How many of your congregation have you seen here to day?—Not one.

Whereabouts is your church?—Our place of worship is in Howard-street, in Sheffield.

You are with this other clergyman, Mr. Warwick?—We do not lodge at the same house.

Where do you lodge in York?—At two different places, and I do not know either of them.

Should you be able to find the way home without a javelin man?—Yes, I can; I know no more about the house I was at last night than I know about your character.

Who took you there last night?—A gentleman I met with in this town, with whom I became particularly familiar.

What a wild story this is for a gentleman speaking to recollection of fifteen months ago!—what is this gentleman's name?—I do not know.

Is he of the same profession with yourself?—Yes.

What street is it in?—It is near the pavement; I slept with him there.

Mr. *Yorke.*—Was it the gentleman you saw with me?—Yes, I think his name is Walker; I was coming into Mr. Yorke's room; I had never been in his company till I came here; and this gentleman coming out of Mr. Yorke's room door, and he made himself very free with me; he asked me if I would come and dine with him; I understood he was of the same profession: there he stands behind the judge.

Mr. *Law.*—It is very odd you should not know his name all this time?

Witness.—I should find myself at no difficulty at all upon this head—could I not address him without addressing him by his name?

Mr. *Law.*—That is the story you tell!

Mr. *Yorke.*—I protest I do not know the gentleman's name myself, though I have seen him six or seven times.

REPLY.

Mr. *Law.*—Gentlemen of the jury—There have occurred in the course of this cause many circumstances that have occasionally excited in my mind much compassion for the unfortunate gentleman who is the object of this indictment; but I must say that my mind is much relieved from the pressure of that compassion by the evidence which he has produced to you, and, most of all, by that which was produced to you last; and it does make my mind shudder, feeling what I feel from this, and recollecting what I do of other cases, where a holy zeal has brought forward persons—(I do not use the word holy zeal in the best sense of that word), but where the zeal of enthusiasm has brought forward persons to tell a fabricated tale, for the purpose of protecting their partisan from the punishment of the law. I remember recently a clergyman who was indicted for words of a very dangerous and seditious tendency, upon the western circuit; I do not know whether your lordship* was upon that circuit; but, my lord, there was the case of a Mr. Winterbotham, who was convicted of a libel, where there came of that holy profession, which ought to have taught them better things, minister after minister, the auditors of that sermon, who swore, with confident memory and perfect recollection, negativing every word spoken by honest and plain men who heard that sermon, who spoke to the mischievous contents of it, who related such a plain unvarnished tale, that they received that implicit belief which was denied to persons of better pretension, but not of better credit, as the result proved.

Gentlemen, these are sad things in the administration of justice; they alarm any man who wishes to have the truth sifted and investigated, and to have either conviction or acquittal stand upon the genuine basis of justice; and therefore I do say, from the observation of these witnesses, my mind is disincumbered from a great deal of that load of compassion which during the cause was impressed upon it. I did feel for a young gentleman of talents, who might have shown where talents were requisite; but I do fear that the misapplication of those talents, the misapprehension of his mind, and the devotion of its powers have been to pervert and mislead those who were the immediate objects upon which his talents were employed, and to mislead himself, as much as any others, in the dangerous paths of mischievous sedition, into which he has been seduced, by the mere vanity of being, what he has great pretensions to be, an orator, a public speaker, attracting much attention; and I am sorry he has fallen a martyr to it: but when I speak of the proof in this cause, good God! what have I to combat! There is not one witness that has been called who, industriously forgetting something, or from the lapse of time, forgetting something contained in this book; but every one recollects a part, some recollect something about the 558 gentlemen in St. Stephen's chapel, others recollect his saying something about their being sent away, others recollect, because there was a paragraph in the speech that Mr. Yorke rather wished they should recollect, as it savoured something of a disposition to peace and good order, that he was against levellers; that, you find all of them willing to recollect, though they withhold their recollection from those parts which are more prominent. But ours is not a case to be met by the lapses of memory as to particular parts; it was published by the very right hand, the very immediate bosom friend and associate of this man, who had been previously living with him in his house,* residing in the place; and the very

* Mr. Justice Rooke was leading counsel for the prosecutions on the trials of Mr. Winterbotham; see them, *ante*, Vol. 22, pp. 823, 875.

* I never lived in his house, and where is the evidence, who has asserted it in this trial. Orig. Edit.

men who have had the confidence to tell you to day, that the speech is dissimilar; are then who tell you this improbable of all tales, that reading it within the short compass of a fortnight, many of them when the memory is fresh, they tell you that his speech was an exhortation to peace and good order throughout, every thing that is favourable to the interests of the community, while the printed account they admit is mischievous, and has a tendency to excite disorder, and particularly vilifying and traducing the House of Commons.

Gentlemen, before I go to their evidence, let me call an unquestionably conclusive one of my own. He has not been examined here as a witness, but you have heard him as an advocate; and, in that character, if he has lent me the bias of his mind to vilify and disgrace the Commons House of Parliament, then am I not without evidence, omitting every other particle of evidence in the cause; and let me turn your attention to the passages, where the kind interposition of my lord stepped forward to prevent him from the rashness he was about to be guilty of: but fortunately he was not interrupted till he had completely shown me his disposition, that it was perfectly gangrene, and that he had at this moment, when it was most important to him for his safety to have you believe that he did respect that important branch of the legislature, do you believe that he spoke of it with respect, when there was no such reason that he should be upon his guard that there is now? One would have supposed that when he was endeavouring to make you believe he did so express himself, that he would certainly so have expressed himself now. And, gentlemen, I have taken it down—the gentleman is near me, and will contradict me if I am wrong, and you yourselves will recollect whether I state it correctly. Speaking of the negro cause, he says, the House of Commons thought it better to advance the cause of national wealth than the cause of national honour. That is a direct charge upon this body; and if his passions are not sufficiently under control to be decent at this moment of peril, do you think that, in the full security of his vanity, he would have had his imagination on the check more at that time—do you think he would have been more upon his guard—do you think he would have been less likely to fall into the lapses that are stated with respect to him, and of which it appears to me he is as much the publisher in point of law as Gales himself?

Now, here he says, speaking with much anger of the suspension of the Habeas Corpus act (which neither the present government, nor any government with the least wisdom, [illegible] but in cases of such urgent [illegible] the measure would be [illegible]table, and which is not at deserving of approbation and praise) now, what does he say of that body, acting under an impulse of necessity, infinitely greater than ever has existed before for the suspension of that act? We have had it suspended, it is true, in the first instance, in the time of the pretender, but at that time the army of Great Britain was strong; there was no internal danger of a magnitude equal to that of late. But of this measure of the legislature, and particularly of the House of Commons, for he does not embrace the Lords in his general reprobation, he says in those emphatic words, with which, in the moment of peril, he has the audacity to calumniate this body: "The House of Commons have, in one day, laid the liberties of the people at the foot of the throne, and every man had occasion to tremble for his personal liberty." Is that a true representation of that act of the legislature, and sanctioned by the Crown, which if one was desirous of catching a hasty expression, might itself have been the subject of prosecution? Will you believe, then, that this gentleman was more upon his guard at that time, when an advertisement was inserted, notifying that citizen Yorke was to make an address to them; and one of the witnesses says, he had known some time before that he was to make the speech it being evidently the talk of men, women, and children, that he was to make it; and one of the persons by whom Mr. Frith was employed, told him that morning, that that famous orator was to make a speech; and yet some of these witnesses have had the confidence to tell you, it was an accidental unforeseen circumstance; that a voice was heard; and really when one hears the enthusiastic fanatic way in which it is stated, a voice was heard calling upon citizen Yorke to fill that tribune, in which all the sedition was presently to be vomited forth, there is a degree of profane fanaticism about the expression, that I own shocked me very much at the time. But it appears that this was a regular digested, projected plan between Mr. Gales, Mr. Broomhead, and this gentleman, that he was then to ascend the chair, this speech was to be let off, and all these combustible ingredients to be administered, which were to produce that political explosion, to blow up what they choose to denominate despotism; which, if it were an abominable government, as they have had the wickedness to compare this government to those at Turkey and Asia, I do not know whether a momentary revolution would not be better. But when they are praying with religious fervour for the arrival of that moment,—a revolution,—when the mists of prejudice were to be removed from the eyes of the public, and when that government is to be done away, which had been the pride of their ancestors, the pride of themselves, and which by that prudent degree of temperate amendment which no person would resist upon a proper application to the legislature, would

insure to us all the blessings which have been the comfort of all preceding ages; and yet, gentlemen, all these blessings are to be put at hazard for the rash ambition of this young man and his associates. And they have the confidence to tell you respecting those pikes,—one of them says, that the two measures of the arming and the associations at Sheffield, against which those arms were supposed to be prepared, were cotemporary events; and the man who admits, that upon the 7th of April these arms had been prepared by himself, swore it was because at that moment the gentlemen of Sheffield had entered into an armed association, and that it was to defend themselves against that association; whereas it appears, by a written paper in the hand of Mr. Frith, that it did not commence till the 1st of May. It is sworn, that upon the 2nd of April Mr. Yorke was not present in this committee-room, but respecting which Broomhead does not fix it to that particular day; but of this he is perfectly clear, he was there several days before the 7th of April, when the proposition was to be made; by which it appears, that he was privy to the communication that a sham motion should be made for a petition to parliament, and that he should, with Broomhead, have been the means of carrying it into effect. Is that contradicted by any body? It is confirmed by the event, which is worth all the positive swearing they may bring you. If it had been the purpose of this meeting to petition parliament respectfully, one would think they would have got that petition prepared, just the same as they had the petition to the king for the abolition of slavery. No such petition was prepared; but it is agreed that it should be proposed. Broomhead said it was agreed it should be negatived. What was the event? it was negatived: but if it was agreed at the committee that it should be proposed, then why did not some of the committee get up and second it! How came it to be still-born! that is what Broomhead says; and you observe the unwillingness with which every particle of evidence is extracted from him; and yet he is compelled by the force of truth to admit it. Gentlemen, this very paper contains the reasons they assigned to the public why they would not petition the House of Commons again, and therefore it falls in and dove-tails with every part of their plan. What Mr. Broomhead says, must be true, because it was negatived. They afterwards endeavour to make one believe that there never was any idea but of doing that thing; and at the same time you observed no such address was prepared. The reasons that they assign are, that the House of Commons is so corrupt a body, that it is not proper to address them at all, nor petition them; and that it is perfectly folly or phrenzy to suppose that a corrupt agent would dismiss himself.

Then, as to Mr. Frith, who lives in Sheffield—and if there could be any imputation upon his character, it must be known to those persons; and if there had been an imputation, I do not think they would have omitted to have brought it forward.*—It is true, they have got Taylor here, whom they thought would contradict him.—But what is the contradiction? he receives positive confirmation, instead of contradiction. This gentleman says, that in his conversation with him he did not object to any thing but the principle:—Says he, the principle is a mischievous one: you have laid down two when you say, *Salus populi suprema lex*, the public welfare is the supreme law. In that I agree with you; but when you lay down, that the will of the people is the sovereign law, that is, the collecting the voice of the people in the tumultuous way, in which alone that voice could be collected; that the voice of the people, in that general sense, is the supreme law, is saying that tumult, riot, and anarchy, are to be substituted in the room of government and the law: and therefore Mr. Frith, upon very reasonable principles, did disapprove of that; and when he was asked how he liked him, he was struck with a splendid exhibition of oratorical talents; and Frith bore a very just testimony to his talents, lamenting, at the same time, that his talents might lead him to do a great deal of mischief; and that he said he had been in three revolutions already: that he had contributed to the revolution in America; had been instrumental in that of Holland; was assisting in that of France; and hoped to effect more revolutions ere he died. A mind early tutored with principles of political good or ill, may early be attracted: we are not concerned to make him state the truth. If this gentleman truly states that which he heard, and he has stated it in terms corresponding in the language of it to many things in this book, then I think there can be no hesitation in believing it was actually uttered. What interest has Mr. Frith, in God's name, to utter a single syllable that he made use of! and let me beseech you to consider the difference between positive and negative evidence. If a man speaks to a particular circumstance of an existing fact, from the recollection of those circumstances, and another man is brought only to say, I do not recollect such a thing passing; the one does not counterbalance the other; because, in the one case, it is engraven upon the memory; in the other, there is an oblivion comes upon the mind. In the course of 15 months the visionary impression of a few words is so natural, that it is wonderful they should retain them; and the only way they could retain them is this, that they have been in the habit of reconsidering them, and repeating them. I know that, in the course of my own experience, the very first speeches I have heard in parliament or in the

* "I was prevented from going into his character by the judge."—Orig. Edit.

courts, attending as a student, many of them remained with an indelible impression, while many other circumstances of much greater importance have made no impression at all. The defence of this gentleman is, that he was contending only for a reform in parliament; that he was only discussing before the assembled multitude the propriety of such reform, and that he had not the least idea of insinuating any disrespectful mention of that House, or the idea of effectuating a reform without their consent. One of their witnesses spoke of his having demanded an annihilation of abuses, and not a compromise with injustice. Is that the language—considering he deemed every thing an injustice by which the mode of obtaining that reform was delayed—could he use that language without meaning immediate restraint and force upon their inclination? And now I will come to that which is conclusive evidence of the publication by him: he is answerable for all the consequences, even if not the very words, if he and this Gales, living together, in communion together, chose to utter to the public, and send up a box of these mischievous pamphlets, he is as liable to answer for the publication as for the oral calumny on the House of Commons uttered at the Castle Hill. How does it appear that he published it? Mr. Gales the printer was his confidential friend: this Mr. Gales, at whose house he resided, with whom he previously settled that purpose, and negatived that motion when it should be made; thus united, and acting together in the most mischievous part of their mischievous contrivances, this person is about to publish it, and asks him to write it for him; and, says Broomhead, "Silence gave consent." Thus he represents him as being requested to write down that speech, and as having given what conveyed to his mind the idea of consent. The speech appears presently published in the town where both of them reside, and was read by every body: and this incredible thing takes place, these people say they read those things recently published, and that they did not believe it to be similar; that what passed upon the Castle Hill was properly loyal and peaceful; that the other contained a great quantity of combustible ingredients, and was calculated to produce a political explosion; and with all these differences about it, all of them communicating together, and being in intimacy with Gales, none of them complained to him that this speech had been misrepresented!—Can you believe that, gentlemen?—Why, suppose any of you had made a speech, and it was published in the town where you resided, by the friend of your bosom, the man with whom you were living and communicating at the very time, and that he does not merely publish it, but he sends away box loads of it, incloses it in covers to several members of parliament, obtruding it upon every member of parliament supposed to be favourable to *plans of reform*, more temperate than those of the persons alluded to, that all this shall pass without Mr. Yorke's having any notice of it—I say it is as much strapped about his neck as if you could see his hand pointing every word of which it is composed: and therefore it is clear, that he either uttered the speech, or approves its contents, and imbibes it afterwards, and is completely answerable for the whole wickedness of the publication. Mr. Yorke has laid in a claim to your consideration, as a person declaiming on political topics, as informing the minds of others in the pure pursuit of public freedom, and in the exercise of public virtue, with the great talents to which, I think, with no little vanity, he has endeavoured to assimilate his own name and labours. But if he had taken this work of Locke's, with all the content about it; if, instead of so reading the detached part, taken from the works of Locke, or from the works of the other respectable persons alluded to, and uttered to 12,000 people, assembled in a tumultuous manner, in a time of public ferment, with the enemy at the door, those people were encouraged to take arms, obeying that encouragement, and the arms have been shown you to-day, fabricated under the eye and with the approbation of Yorke (for that is distinctly in evidence), Yorke knowing to whose hands these mischievous instruments were to be consigned, for we have it from the unwilling testimony of Widdison, that a dozen and a half of these were to be made for Gales and his associates; so that you find them communicating in every part; a dozen and a half were to be made for Gales and several others, and a quantity of shafts, to the number of 130 or 140, in order to make that mischievous weapon useful for the purposes for which it seems calculated; when I see this brought home to the defendant, I know how to "combine principle with practice," in the language of some of the authors which this gentleman has recommended, to effect that political explosion, which it evidently seems the whole of this plan of writing, of speaking, and of arming, was calculated to produce—it was the extreme of mischievous sedition.

And now, gentlemen, as to the complaints this gentleman has made of his continued confinement; I, knowing many of the ramifications of this business, which, if they had been pursued, might have led to still more dangerous consequences, I would advise him, without specifying particulars, in future to spare complaints where he has none to make, and rather to be thankful for the lenity of the present prosecution for a misdemeanor, without which he might have felt the rigours of another species of prosecution. But when he says he is hunted down by the government, I ask him, was it not open to him to have had bail; and if circumstances of private embarrassment has disenabled him to avail himself of that bail, I do not think it very candid to throw out harshness against government.

Mr. *Yorke.*—It is no such thing; I defy any man to say I owe 50*l.* in the world.

Mr. Justice *Rooke.*—Mr. Law, you are at liberty to state to the jury that Mr. Yorke might have been admitted to bail, but nothing farther.

Mr. *Law.*—Gentlemen, that bail was easy, and I know from those who are intrusted with the prosecution, that if any body had said that the quantity of bail was inconvenient, it would have been alleviated to the lowest sum possible; and there is not another man in the kingdom who has not availed himself of that opportunity, except in cases of civil suit, which has been the case with a few men. But let it not go abroad in unfounded insinuation, that this gentleman, or any other person in the kingdom, is the object of a species of prosecution, which, thank God, for several years the administration of this country has stood without being imputed to it. Upon that matter, however, he has improperly said—I ought not to urge it, because it may probably by-and-by be considered; and I trust every circumstance will be considered; for I tell him, in spite of his renunciation, it is the spirit of the English constitution to administer, even in despite to him, justice with mercy, although he has renounced any claim to mercy.

Why then, gentlemen, having established that this is a publication with which he is immediately chargeable, can you refer the language of it to the fair, genuine, liberal discussion of a topic of controversy, upon the subject of reform in parliament, or is not this a publication that aims at the destruction of the regular government of this country.—But if this does contain such mischievous principles as I say it does, how could that gentleman, with any jealousy of his fame—how could that gentleman, with any respect for his safety, suffer this to gain ground in the country as a declaration of his sentiments, when every sentiment of his mind, as he would have you believe, is repugnant to it? I will just mention a circumstance of confirmation that came very naturally from Mr. Frith, and which made a strong impression upon my mind. He recollected several things from accident; for I was going to part with him several times: Mr. Yorke pressed him; and though in the habits of our profession we do not precisely know all they mean to say, that gentleman brought out an infinite quantity of matter to which I should not have advised that gentleman. "There was something said about families advanced to the throne who forgot the principles that advanced them there. Whether you were speaking of the advancement of the house of Brunswick, or the house of Hanover, I don't recollect, but I know there was something pointed that you uttered upon that subject." Mr. Yorke stopped there, and there it would have rested; but upon looking over this book, says he, do you think it was any thing like this—the Triennial act;—"O yes!" says he, "that is it," and then he went on with me through the passage. This, gentlemen, in addition to the truth of the story, reflects an undoubted credit upon it. But not only Mr. Frith recollects these passages, but Wreaks and Gillot recollect, and very pointedly recollect the circumstances that passed. Indeed, I own they recollected with a perfectness, that when he was asked if he had not read it since, he said, fifty times, I dare say; and when he was examined as if it was to a milk score, I should have almost doubted. But he removed all difficulty upon the subject; for some parts that are not specifically here, he could only have recited from memory, continued down from that precise period of time at which he heard it. Then there is Wreaks and Gillot recollect; and is not that much stronger than the absence of memory, and forgetfulness of others, who, from the lapse of time, forgot the particular passages concerning which they were questioned: and there seems to have been a great deal of artifice about a confusion of metaphors, "scowling back to caves of obscurity," and the Lord knows what. I confess I agree with them, that such a confusion of metaphors I should have recollected; Mr. Yorke will pardon me, I do not mean to pay an ill compliment to his talents; I have not done it yet; but I think that was an awkward thing, and it might have made me recollect it: but some of them recollect the context; and one of the dissenting clergymen recollected the words annihilation of corruptions and abuses, and a restitution of the original rights of human nature, and this demanding of an annihilation of corruptions, is by persons not applying themselves peaceably to parliament, by way of representation, or even by remonstrance, but demanding of the people, in an imperious tone, that would take no denial, the annihilation of that which they choose to consider as vices in the system. Now, the other parts you have heard already considerably discussed, and my learned friend was anxious to have every part of it read to you in evidence; and I will give him the benefit of any explanation that can be derived from the context, and if there be a prevailing honest sentiment, from which the writer or the speaker has in a rash moment occasionally deviated, that occasional deviation one would consent to pardon, in favour of a general good intention, where that good intention was permanent: but when I see him treating the religion of this country as fanaticism—when I find him treating the present laws and government of this country as a political imposture upon mankind—when I find him stating to them that they had endured these things too long, and should endure them no longer, which imports, that it was a grievance to endure them, till the light of reason had illuminated them—and when I find him, in order that every man's mind may feel what

be wishes them to feel, telling them that all this is prejudice and usurpation, and that it is high time for this illuminated people to tell those who represent them, and who were in communion with the other two branches, that it is time for them, and, he said with a sneer, for the 558 gentlemen to go about their business—Upon these expressions, there is hardly a witness who does not agree in confirming the use of them.—I put it to any one of you separately, can you find a way in which it could have been respectfully spoken? could he say it but with disrespect? can you believe that he wished that the persons to whom he was addressing himself, should feel respectfully of them, when he was speaking in the slight flippant terms in which he spoke of them? But, gentlemen, I call to your recollection, in aid of this observation, how twice to-night he deviated into the same intemperance, and in his address to you, was guilty of that which might have been the subject of a prosecution, if the humane interposition of my lord had not stopped him. Then the evidence goes to the positive unimpeached recollection of three persons. The large parts of this speech uttered at the time when the most mischief could be produced, to a multitude of 5 or 6,000, or double the number, collected by public advertisement; which advertisement states, that in all probability, a great number of friends would come from the country, and endeavouring to cheat the multitude into a belief, that there was that unanimous contempt of the House of Commons, that they would resolve to petition them no more; then this inflammatory address, touching their passions upon every subject most calculated to move them, touching them upon the subject upon which parliament is about to give them that prudent redress, I mean upon the subject of the Slave trade, and that he was wishing, first of all, to irritate their feelings; and then, in this publication says, their situation was little better than the persons of whom he was speaking.

In the address to the king, he says, "As we ourselves feel, we are naturally led to sympathise with those who feel also. Wishing to be rid of the weight of oppression under which we groan, we are induced to compassionate those who groan also, and to desire an alleviation of their sufferings. On our own account we have repeatedly petitioned the lower house of parliament, but petitioned in vain. We are weary of the practice: we are disgusted to hear the hallowed name of liberty made the sport of corrupt placemen; and we are shocked to see that, in the practice of legislation, humanity is but a name."

Now, I ask, can there be a more pointed libel upon the whole legislature than this, holding out to the people of this country, that those who are the fountains of law, and the sources of protection, that to them humanity is merely a name? In God's name, how is the parliament of the country—how is the king, who presides at the head of that parliament, to be obeyed, if people are to be taught to treat them with that habitual contempt! This is not a case of ordinary sedition, of light words, or a case in which a few expressions may meet the censorious eye of a critical observer; but the whole fabric of this speech is mischief; a pestilence, affecting the vitals of the constitution in every part of it. And if punishment does not come down upon this gentleman, it is in vain, from this moment, to talk of that which he affects to prize so much—the liberty of the press! for, unless its vices are restrained, the licence of the press will destroy the liberty of it, and precipitate us into that state of anarchy and confusion, which obtains in another country; and which anarchy and confusion has been mainly produced by the mischief I am complaining of. The licensed abuse of every character, by the numerous journalists of that country, destroyed their liberty, which was followed by all that wickedness which has made every man, who had the least sentiment of virtue, shudder; and I know no way so effectual to nip the mischief in the bud, to have our dwellings secured to us from the depradations of those who wantonly rival the magistracy of the country, who address multitudes for the purpose of arming;—and let it not be said that the words slipped casually from him—he must contemplate arming who approves arms when they are made.—It is not upon the loose wording of a letter that I lay a stress, he has one put into his hand, sent by an associate, upon this record: unless, therefore, you are ready to consign your country to spoil—unless you are prepared to sacrifice the security of private life as well as public, in respect to characters, you will not give this broad encouragement to libellers—to the movers of sedition and mischief, which would be given if you hesitate a moment in giving the verdict which is warranted by that unimpeached body of evidence that has been laid before you, which is merely attempted to be assailed by the non-recollection of a few persons of the description of some of the witnesses here, very fanatical, very zealous, very unworthy, from their manners, of any belief—a collusion—and closed with that, which appeared to me gross perjury, by the man whom they make to bring up the rear of their army;—you cannot believe the manner in which that evidence was given; but, if you believed it to the utmost, it does not impeach the positive testimony of the evidence we have produced. And, if you should so believe, you will do that which is essential to the safety of yourselves, your country, and the government that protects you — give that verdict of conviction that will consign him to the proper punishment that awaits him, where he will find, although he may renounce it, that justice is tempered with mercy.

SUMMING UP.

Mr. Justice *Rooke*.—Gentlemen of the Jury; There is no principle I can more properly begin with in this case, before I sum up to you, than that which the defendant himself set out with; namely, the desiring you to discharge all prejudices from your mind upon this occasion. I do not suppose that such a caution is necessary; but, however, I do entirely agree with him, and I do hope, and do not doubt but you will attend to the evidence that has been produced in this cause, without giving way either to false mercy on one side, or false prejudices on the other; that you will attend wholly to the evidence, and know, that the best way in which a jury can execute their duty is, to give their verdict according to the evidence before them.

I told the defendant, that you should be apprized of what I considered to be the right of every man in this country; namely, that he has a right to discourse upon speculative plans of reform, with this proviso, that he shall not endanger the peace of his country; for whenever speculative men are not contented with, but go beyond their abstract speculation, it is for a jury to determine, whether they do not mean to do something more, so to disturb the public mind as to bring the constitution into discredit, and to excite the subjects of the country to a state of tumult and disaffection; and we all know, that the comfort and basis of all governments is, the mutual good affection that subsists between the magistrate and the people. If, on the one hand, the magistrate does not love the people, or if, on the other hand, the people do not look up to their magistrate with love and respect, that country never can go on in comfort and prosperity; and it is therefore a vice of the most odious and dangerous tendency, to wish to excite disaffection between the governor and the people.

Before I state to you the nature of this charge, I will also exhort you to bear this in mind, that the doctrine of annual parliaments and universal suffrage, is that upon which men have very honestly held different opinions. I think, as I have told the defendant in the course of the business, that the question of annual parliaments has been wholly misunderstood; for that, upon the subject of annual parliaments, we have them to this day, for the king does call the parliament together every year: and the old constitution of this country undoubtedly was, that it was at the pleasure of the Crown whether it would call a new parliament or assemble the old one; that was the constitution of this country at the æra of the Revolution: for, from the earliest time to the accession of king William, the king had it in his power to assemble either the old or call a new parliament, but was not obliged to call them annually together. Since that time, two alterations have been made; by the statute of king William, they were prohibited calling the same parliament more than three times; and since that, seven times and no more; and, therefore, questions started upon that subject appear not well understood; for the one and the other are only abridgments of the king's prerogative, for the king might call them as often as he pleased; after the statute of Geo. 1st, he called them together for seven years only.

As to septennial parliaments, it is not for us to discuss, it is enough to remind you, that it is the law of the land; and whoever wants to change it, by any other means than that of fair discussion, is a bad member of the state.

As to universal suffrage, we know, for three centuries past, we have had a legislative condemnation of universal suffrage in this country, and in no country upon the earth has universal suffrage ever prevailed. In a neighbouring country, after having tried it, they found it would not do. In no country has it obtained, and it is, at this moment, contrary to the law of this country. After hearing that, whoever would, by any other means than fair discussion, inforce the doctrine of universal suffrage, is a mischievous member of society.

These things being premised to you, I will now state the indictment which has been found against the defendant. It states, that "he, together with Joseph Gales, and Richard Davison, being seditious and disaffected persons, and intending to break and disturb the peace of this realm, did, on the 7th of April, in the 34th year of the reign of our sovereign lord George the 3rd, now king of Great Britain, and so forth, and on divers other days and times, as well before as after, with force and arms, at Sheffield aforesaid, in the county aforesaid, unlawfully, maliciously, and seditiously, did combine, conspire, and confederate with each other, and with divers other disaffected and ill-disposed subjects, whose names are to the said jurors unknown, to traduce, vilify, and defame, the Commons House of Parliament, and the government of this realm, and to excite a spirit of discontent, disaffection, and sedition, in the minds of the liege subjects of our said lord the king, towards and against our said lord the king, and the government of this realm."

This is one of the allegations necessary for you to attend to; for, unless you find that what they did was done with some of these views, the defendant is entitled to your acquittal. The first charge is, that he conspired with Gales; and a conspiracy of two is sufficient; so that whether Davison was a conspirator or not is not material, if Mr. Yorke and Galese onspired together.

There is a farther allegation, that in pursuance of this conspiracy, they did cause and procure certain subjects, "4,000, or more, to assemble together on the Castle Hill, at Sheffield, for the purpose of hearing divers scan-

dalous, seditious, and inflammatory speeches, resolutions, and writings, of and concerning the Commons House of Parliament."

And there is a further allegation, that they did it in pursuance of the conspiracy, and "to induce the subjects to believe that the House of Commons was inattentive to the lawful wishes, desires, and petitions of the people," &c.

There are also counts for printing and "publishing a seditious pamphlet, of and concerning the said Commons House of Parliament, and the government of this realm, intituled, Proceedings of the Public Meeting held at Sheffield, in the open Air, on the 7th of April, 1794; and also, An Address to the British Nation, being an Exposition of the Motives which have determined the People of Sheffield to petition the House of Commons no more on the Subject of Parliamentary Reform; and also, that he did conspire and confederate, with divers other disaffected and ill-disposed subjects, to break and disturb the peace and tranquillity of this realm, and to raise and excite riots, commotions, and tumults therein, amongst the subjects of our said lord the king, and to incite and encourage the said subjects to furnish and provide arms and offensive weapons, for the purpose of more effectually raising and carrying on such riots, commotions, and tumults."

Now, in order to make out these points, perhaps, it will be better, before I sum up the evidence, to point your attention to one circumstance, and that is, that you would consider, as to the speech printed and the speech proved to have been uttered, what is the fair construction of them: that the speeches, if they were uttered by the party as published, relate to the government of this country there can be no doubt. "When our nation shall be regenerated, these persecuted men will wear civic crowns." He speaks of our nation, and then he addresses them and says, "Fellow-citizens, the day is at length arrived," and so on; and, throughout, he seems to me never to speak of government in general, without having the British constitution in his view; that is the principal part of the innuendoes in this indictment. The innuendoes, in general are, that he meant, among others, to allude to the government of this country, of which I think you can hardly entertain a doubt, provided the speeches and the publication are fairly stated. You are therefore to consider, supposing the innuendoes fairly stated, whether it was their intention merely to enlighten the minds of the people upon a speculative point, or to carry them a step farther, and excite a spirit of discontent, disaffection, and sedition in their minds. If you should be of opinion that the defendant uttered these speeches with that view, or that he had that tendency, even though he might have no that design; yet, if a man will, in a public assembly, utter words, having a seditious tendency, he must take the consequences; and he can, in my opinion, no more justify himself for what he has done, by saying he did not think it would have that consequence, than a man who should fire a pistol among a crowd should be allowed to say, I did not thing my pistol would have gone so far, or that a man shall be allowed to say, I only meant to try the effect of powder, and did not think it would have killed the man. The crime of sedition has nothing analogous to it, except the crime of high treason. If a man is robbed on the highway, he sees exactly the extent of the loss; but who shall say, when a man addresses an assembly, in a way to inflame the multitude, who shall say where the mischief shall end? it is impossible for any man to answer for the mischief; and for that reason it is, that I tell you as my own private opinion, I think it is a crime that has nothing analogous to it in this country, except the crime of high treason, because the extent can never be ascertained; therefore men must be cautious as to what they utter, and it is the blessing of this country to have a control over them; it is the province of a jury, when speeches are brought before them that are libellous or seditious, to say whether they think the party has really uttered them, if they do think the party uttered the speeches, and that the speeches have a seditious tendency; till I am better informed, I shall never direct a jury to attend to the intention of the party, but to the thing itself.

Having premised so much, I will now proceed to the evidence.

[Here his lordship recapitulated the evidence on the part of the crown.]

This is the evidence on the part of the prosecution. On the part of the defendant, you have heard a speech upon which I will make no comment, except this, that he made some observations certainly not very reverently of the House of Commons—that by the suspension of the Habeas Corpus act they had laid the liberties of the people at the foot of the throne. It was better stopped, that nothing farther might go on upon that subject; and it is a line that it is surely the duty of a judge to pursue; because he cannot sit here and do his duty, unless he stops a man the moment he says a word to slander the laws. I cannot suffer the acts of the legislature to be censured. He supported his speculative principles of annual parliaments and universal suffrage, and says he has uttered no more than what may be found in the speeches of such men as the late lord Chatham, lord Camden, sir George Savile, archdeacon Paley, and others: and it is very true they have done so, and we believe in charity that they have honestly done so; and if the conduct of the defendant here had been merely a speculation of his own, it would have been a different thing; but when those speculations are put forth in a large assembly, it will be for you to judge whether you will give him credit for

the innocence of his exertions, whether he did not address them with a view to inflame their minds and their passions. He says that he did not; and he urges, and has a right to urge, as to the consequences of his speech, that Sheffield has had no riot in it since, and that it is almost the only town in which no riot has ensued; and even if it is so, what consequences have ensued we have nothing to do with. The next part of his defence goes to deny that the pamphlet itself, and the speech which he uttered, really had that seditious tendency, or could bear the construction that the witnesses for the crown have spoke to; and to that purpose he calls several witnesses.

[Here his lordship summed up the evidence on the part of the defendant.]

Now, gentlemen, this is the whole of the evidence on the one side and on the other; and as I said at the outset, before I began to sum up, it is your province to consider fairly and dispassionately the duty you owe, on the one hand, to the public, and that which you owe, on the other, to the prisoner. If he has, in your opinion, been guilty of addressing a public meeting, at the time that he did address this meeting, namely in the month of April 1794, when your own observation must furnish you with what the state of the country was, and the dispositions of the minds of many of the king's subjects, if he has thought proper to address the people in strong energetic language, such as is mentioned here, and that language had a tendency (all the circumstances of time and place considered, for you ought to take all that into consideration), to excite sedition in the minds of his majesty's subjects, to vilify, traduce, and defame the House of Commons: if you think he not only did that, but that in doing it he and Gales conspired together, you will find him guilty. If, on the contrary, you think he had no previous communication with Gales, he is entitled to your acquittal. If you believe that he and Gales were two honest speculators, having merely that speculation in view, and that their address to the public was perfectly innocent, and had no tendency to excite disaffection, then you ought to find him not guilty. As to the circumstance, whether he is the publisher of the speech or not, it rests upon some very few facts. That he uttered some speeches, there is no doubt; and that they were of the nature stated in the indictment, if you believe the witnesses, you cannot doubt. On the other hand, that the speech had not that tendency, but was an innocent one, and only tended to produce peace and good order, if you believe the testimony of the witnesses, you must think. But there is an additional circumstance in this case: the pamphlet itself is published as the proceedings of the meeting of that day; Mr. Gales and Mr. Yorke confer about the business of arms; Mr. Yorke said Gales would take a dozen of them; and Mr. Yorke had conversed with Gales before the meeting; and within a week after the meeting this publication was produced; and it is published as a narrative of the proceedings: it, by the account of the defendant's own witnesses, comprises several passages, particularly that about the 558 gentlemen in St. Stephen's chapel; it comprises that clearly, and the other witnesses say many more passages: those persons who thought it stronger than the speech as uttered, never made any remonstrance about it, or endeavoured to put a stop to the negociation of that libel. That being the case, you will consider whether this book is not confirmatory of what the speech contained; and if you believe that Mr. Yorke was privy to the publication of this book, you can only infer it from Mr. Yorke not being able to produce evidence to the contrary. If you are of that opinion, then the publication itself is evidence of what that speech uttered by Mr. Yorke did really contain, and will help to guide your judgment in deciding between the account given by the evidences for the prosecution and that for the prisoner; for it is impossible to take up this book, and say it does not tend to libel the House of Commons, and tend to excite disaffection in the government of the country. Therefore, taking one of these books with you, I only admonish you of the very important duty you have to discharge; and you are to consider whether or not Mr. Yorke excited a spirit of disaffection at that meeting, and whether what is charged in the indictment passed at that meeting.

The Jury having withdrawn about twenty minutes, returned with a verdict of—GUILTY.

Mr. *Yorke*.—When will your lordship fix the day for the trial of the next indictment.

Mr. Justice *Rooke*.—It is passed over. They do not intend to proceed upon it.

In the ensuing Michaelmas Term the defendant was brought up to receive the judgment of the Court of King's-bench. The sentence passed upon him by Mr. Justice Ashhurst was, that he should pay a fine to the king of 200*l*.; be imprisoned for two years in Dorchester gaol, and until such fine should be paid; and that he should give security for his good behaviour for seven years, himself in 1,000*l*., and two sureties in 500*l*. each.

Some years afterwards this defendant was, by the Masters of the Bench of the Hon. Society of the Inner Temple, called to the degree of Barrister at Law.

610. Proceedings on the Trial of WILLIAM STONE, Merchant, for High Treason; at the Bar of his Majesty's Court of King's-Bench, Westminster, on Thursday and Friday the 28th and 29th Days of January: 36 GEORGE III. A. D. 1796.*

Court of King's Bench, Thursday, January 28, 1796.

Present.—The Right Hon. Lloyd, Lord Kenyon, Lord Chief Justice; Mr. Justice Ashhurst, Mr. Justice Grose, Mr. Justice Lawrence.

Counsel for the Crown.—Mr. Attorney General [sir John Scott, afterwards Lord Chancellor Eldon]; Mr. Solicitor General [sir John Mitford, afterwards lord Redesdale, and Lord Chancellor of Ireland]; Mr. Law [afterwards lord Ellenborough, and Lord Chief Justice of the Court of King's Bench]; Mr. Garrow [afterwards a Baron of the Exchequer]; Mr. Wood [afterwards a Baron of the Exchequer].

Solicitor.—Joseph White, esq. Solicitor to the Board of Treasury.

Counsel assigned for the Prisoner.—Mr. Serjeant Adair; the Hon. Thomas Erskine [afterwards Lord Chancellor Erskine.]

Assistant Counsel.—Mr. Gibbs [afterwards, successively, Lord Chief Baron of the Court of Exchequer, and Lord Chief Justice of the Court of Common Pleas]; Mr. Adam [afterwards Lord Chief Commissioner of the Jury Court, and a Baron of the Court of Exchequer of Scotland]; Mr. Holroyd [afterwards one of the Justices of the Court of King's Bench]; Mr. C. F. Ward.

Solicitor.—Mr. Richard Wilson, Bartlett's-buildings, Holborn.

The Court being opened, and William Stone set to the bar, the Jurors returned by the Sheriff were called over.

Rice Davis, esq. challenged by the prisoner.
Henry Delamaine, esq. not a freeholder.
John Leader, gent. sworn.
William Atkinson, esq. not a freeholder.
Lucas Birch, esq. not a freeholder.
Adam Askew, esq. challenged by the prisoner.
James Crompton, paper-hanging maker, challenged by the crown.
Samuel Etheridge, gent. excused on account of age.
John Mayhew, esq. sworn.
Charles Cole, esq. challenged by the prisoner.

Thomas Adderley, esq. challenged by the crown.
Christopher Arden, gent. excused on account of deafness.
Stephen Williams, esq. not a freeholder.
Thomas Williams, esq.

Mr. *Williams.*—I have been acquainted with Mr. Stone near twenty years; a great part of that time I have been very intimate with him; and therefore hope I shall be excused.—Challenged by the crown.

Timothy Curtis, esq. excused on account of illness.
Richard Jupp, esq. not a freeholder.
Ralph Nicholson, esq. not a freeholder.
John Hetherington, esq. sworn.
Thomas Cole, esq. sworn.
William Pardoe Allett, esq. not properly described in the panel.
John Crutchfield, esq. not a freeholder.
George Shakespear, esq. excused on account of age.
Joseph Hankey, esq. not a freeholder.
Edward Ironside, esq. not a freeholder.
John Freeman, esq. not a freeholder.
John Peter Blaquiere, challenged by the prisoner.
John Winter Oswin, oilman, not a freeholder.
George Nairne, stockbroker, not a freeholder.
Henry Wright, gent. challenged by the prisoner.
Jeremiah Blackman, timber-merchant, excused on account of deafness.
Thomas Bromley, esq.

Mr. *Bromley.*—I was upon the Grand Jury that found the bill, and therefore am not eligible.

Samuel Bonham, esq. challenged by the prisoner.
Sampson Bowles, esq. not a freeholder.

Mr. *Attorney General.*—It happens, I cannot tell how, that a great part of the jurors have not the qualification that the law requires.

Lord *Kenyon.*—I am very sorry that the freeholders book is made up in such a manner.—The writ requires the sheriff to return freeholders; and how he is to excuse himself for not returning freeholders I do not know.

Charles Minier, seedsman, sworn.
Richard Gough, esq. challenged by the prisoner.

* Short-hand by Joseph Gurney.

Charles Brett, esq. excused on account of age.
Daniel Dyson, farmer, sworn.
George Abel, gent. not a freeholder.
George Nightingale, esq. not a freeholder.
Samuel Edwards, wine-merchant, challenged by the prisoner.
Samuel Rankin, esq. challenged by the prisoner.
Thomas Burnett, esq. sworn.
David Dean, esq. challenged by the prisoner.
William Sumner, silversmith, sworn.
John Lorkin, oilman, sworn?
Richard Thresher, hosier, not a freeholder.
John Boon, butcher, challenged by the crown.
John Briscoe, esq. not a freeholder.
John Baker, esq. challenged by the prisoner.
Philip Firmin, button-maker, not a freeholder.
John Bond, esq. challenged by the prisoner.
George Bristow, esq. challenged by the prisoner.
John Graham, bricklayer, challenged by the prisoner.
Peter Taylor, blockmaker, sworn.
Thomas Gildart, esq. challenged by the prisoner.
Richard Twining, esq. challenged by the prisoner.
William West, brewer, sworn.
George Ward, esq. not a freeholder.
Samuel Ireland, merchant, not a freeholder.
Joseph Sales, esq. not a freeholder.
Thomas Day, esq. challenged by the prisoner.
Gideon Combrune, esq. challenged by the prisoner.
William Tatnell, esq. not a freeholder to the value of 10*l.* a-year.
John Hall, esq. excused on account of illness.
George Fillingham, hop-factor, challenged by the prisoner.
Richard Thomas, silversmith, not a freeholder.
William Colman, esq. challenged by the prisoner.
Thomas Everett, esq. not a freeholder.
Andrew Reid, esq. challenged by the prisoner.
Isaac Dimsdale, coach-master, sworn.*

THE JURY.

John Leader	Thomas Burnett
John Mahew	William Sumner
John Hetherington	John Lorkin
Thomas Cole	Peter Taylor
Charles Minier	William West
Daniel Dyson	Isaac Dimsdale.

* "None were sworn on the Jury who had not a freehold in the county, or who were above 70 years old. The prisoner's counsel objected to one of them, as being ill described, his place of abode being stated to be *Grafton-street*, and as it was said, there being several of that name, there should have been something added to distinguish which *Grafton-street* was meant. This objection was overruled; whereupon the prisoner challenged the Juryman peremptorily." *R.* v. *Stone*, 6 *T. R. 531.*

The Jury were charged with the Prisoner in the usual form, on the following Indictment.

CAPTION.—*Middlesex to wit.*

BE it remembered that on Thursday next after three weeks from the day of the Holy Trinity in the thirty-fifth year of the reign of our sovereign lord George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith &c. in the court of our said lord the king before the king himself at Westminster in the county of Middlesex upon the oath of Robert Stephenson esquire Simon Le Sage esquire Hezekiah Green esquire Robert Lewis esquire Edward Read esquire John Groves esquire John Thompson esquire John Sich esquire John Spinage esquire Thomas Bramley esquire John Nicholl esquire William Dickey esquire Blanchard Coward esquire Peter Henderson esquire Jeffrey Merryweather Shaw esquire William Parker esquire John Alexander esquire Thomas Davis esquire Thomas Marthwaite esquire Edward Hippesley esquire and Joseph Thackery esquire good and lawful men of the said county of Middlesex now here sworn and charged to inquire for our said lord the king for the body of the said county It is presented as followeth that it is to say—

INDICTMENT.—*Middlesex to wit.*

The Jurors for our lord the king upon their oath present that on the first day of March in the thirty-fourth year of the reign of our sovereign lord George the Third by the grace of God of Great Britain France and Ireland king Defender of the Faith &c. and long before and continually from thence hitherto an open and public war was and yet is prosecuted and carried on between our said lord the king and the persons exercising the powers of government in France (that is to say) at Old Ford in the county of Middlesex and that William Stone late of Old Ford aforesaid in the county of Middlesex aforesaid merchant a subject of our said lord the king of his kingdom of Great Britain well knowing the premises but not regarding the duty of his allegiance nor having the fear of God in his heart and being moved and seduced by the instigation of the devil as a false traitor against our said lord the king and wholly withdrawing the allegiance fidelity and obedience which every true and faithful subject of our said lord the king of right ought to bear towards our said lord the king and contriving and with all his strength intending the peace and common tranquillity of this kingdom to disquiet molest and disturb and to depose our said lord the king from the royal state title power and government of this kingdom and to bring and put our said lord the king to death heretofore (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers

other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid maliciously and traitorously with force and arms did compass imagine and intend to depose our said lord the king from the royal state title power and government of this kingdom and to bring and put our said lord the king to death

And to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with one John Hurford Stone one William Jackson and divers other false traitors whose names are to the said jurors unknown to aid and assist and to seduce persuade and procure divers subjects of our said lord the king to aid and assist the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in an hostile invasion of the dominions of our said lord the king and in the prosecution of the said war against our said lord the king

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with the said John Hurford Stone William Jackson and divers other false traitors whose names are to the said jurors unknown to raise levy and make insurrection rebellion and war within this kingdom against our said lord the king and to invite persuade and procure the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid to invade this kingdom with ships and armed men and to prosecute and carry on the said war against our said lord the king within this kingdom.

And farther to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid well knowing the said William Jackson traitorously to have come to and landed in this kingdom for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king were or were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion of this kingdom should be made by them for the prosecution of the said war against our said lord the king and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king did with force and arms maliciously and traitorously receive and treat with the said William Jackson at Old Ford aforesaid in the county of Middlesex aforesaid for the aid assistance and direction of the said William Jackson in the prosecution performance and execution of his traitorous purpose aforesaid and did then and there maliciously and traitorously treat consult and converse with and did then and there maliciously and traitorously aid comfort abet and assist the said William Jackson in about and concerning the prosecution performance and execution of his the said William Jackson's traitorous purpose aforesaid

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with the said John Hurford Stone William Jackson and divers other false traitors whose names are to the said jurors unknown to collect and obtain and cause to be collected and obtained information and intelligence within this kingdom and the kingdom of Ireland whether any and what part of the subjects of our said lord the king were disposed to aid and assist the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in an hostile invasion of any and what part of this kingdom or of the kingdom of Ireland for the prosecution of the said war against our said lord the king and to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prose-

cution of the said war against our said lord the king

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did inquire and cause to be enquired of divers persons in this kingdom and did collect and obtain and cause to be collected and obtained from such persons information and intelligence whether the subjects of our said lord the king were or were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion should be by them made into this kingdom for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did obtain and in his custody and possession did keep divers letters notes memorandums and instructions in writing containing information and intelligence how the subjects of our said lord the king were affected to our said lord the king and his government and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king as aforesaid in their conduct and prosecution of the said war against our said lord the king.

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did send and cause and procure to be sent from this kingdom to be delivered in foreign parts beyond the seas divers other letters notes memorandums and intelligence in writing containing information and instructions how the subjects of our said lord the king were affected to our said lord the king and his government and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did with the said William Jackson and divers other false traitors whose names are to the said jurors unknown conspire consult consent and agree to raise levy and make insurrection rebellion and war against our said lord the king within his kingdom of Ireland and to cause procure and incite the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid to invade the kingdom of Ireland with ships and armed men and to carry on the said war against our said lord the king within the kingdom of Ireland

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers

other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traiterously did conspire consult consent and agree to and with the said William Jackson and divers other false traitors whose names are to the said jurors unknown that he the said William Jackson should go to and land in the kingdom of Ireland for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king of his kingdom of Ireland were or were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion of the said kingdom of Ireland should be made by them for the prosecution of the said war against our said lord the king and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the said assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king and did then and there maliciously and traitorously aid and assist the said William Jackson in going to and landing in the said kingdom of Ireland for the prosecution performance and execution of the traitorous purpose last mentioned and which said William Jackson in pursuance of the said last mentioned conspiracy consultation consent and agreement heretofore and during the said war (to wit) on the twenty-eighth day of March in the thirty-fourth year aforesaid did go to and land in the kingdom of Ireland and did stay and continue there for a long time (to wit) for the space of one month for the prosecution performance and execution of the traitorous purpose last mentioned

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid after the said William Jackson had gone to and landed in the said kingdom of Ireland for the traitorous purpose last mentioned and while the said William Jackson remained and continued in the said kingdom of Ireland for the traitorous purpose last mentioned and during the said war (to wit) on the fifth day of April in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did correspond with advise counsel aid abet and assist the said William Jackson in and about the prosecution performance and execution of the traitorous purpose last mentioned

And further to fulfil perfect and bring to effect his most evil and wicked treason and treasonable compassing and imaginations aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did furnish and supply and cause to be furnished and supplied and aid and assist in furnishing and supplying the said William Jackson with divers sums of money bills of exchange and notes for payment of money thereby to enable the said William Jackson to fulfil perform and execute his the said William Jackson's traitorous purposes before mentioned in contempt of our said lord the king and his laws to the evil example of all others in the like case offending contrary to the duty of the allegiance of him the said William Stone against the form of the statute in such case made and provided and against the peace of our said lord the king his crown and dignity

And the jurors aforesaid upon their oath aforesaid do further present that on the said first day of March in the thirty-fourth year aforesaid and long before and continually from thence hitherto an open and public war was and yet is prosecuted and carried on between our said lord the king and the persons exercising the powers of government in France (to wit) at Old Ford aforesaid in the county of Middlesex aforesaid and that the said William Stone well knowing the premises but not regarding the duty of his allegiance nor having the fear of God in his heart and being moved and seduced by the instigation of the devil as a false traitor against our said lord the king and wholly withdrawing the allegiance fidelity and obedience which every true and faithful subject of our said lord the king should and of right ought to bear towards our said lord the king and contriving and with all his strength intending to aid and assist the said persons exercising the powers of government in France and being enemies of our said lord the king in the prosecution of the said war against our said lord the king heretofore and during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day with force and arms at Old Ford aforesaid in the county of Middlesex aforesaid maliciously and traitorously was adhering to and aiding and comforting the said persons exercising the powers of government in France then being enemies of our said lord the king as aforesaid and that in the prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other

as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with the said John Hurford Stone William Jackson and divers other false traitors whose names are to the said jurors unknown to aid and assist and to seduce persuade and procure divers subjects of our said lord the king to aid and assist the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in an hostile invasion of the dominions of our said lord the king and in the prosecution of the said war against our said lord the king

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with the said John Hurford Stone William Jackson and divers other false traitors whose names are to the said jurors unknown to raise levy and make insurrection rebellion and war within this kingdom against our said lord the king and to invite persuade and procure the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid to invade this kingdom with ships and armed men and to prosecute and carry on the said war against our said lord the king within this kingdom

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid well knowing the said William Jackson traitorously to have come to and landed in this kingdom for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king were or were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion of this kingdom should be made by them for the prosecution of the said war against our said lord the king and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king did with force and arms maliciously and traitorously receive and treat with the said William Jackson at Old Ford aforesaid in the county of Middlesex aforesaid for the aid assistance and direction of the said William Jackson in the prosecution performance and execution of his traitorous purpose last mentioned and did then and there maliciously and traitorously treat consult and converse with and did then and there maliciously and traitorously aid comfort abet and assist the said William Jackson in about and concerning the prosecution performance and execution of his the said William Jackson's traitorous purpose last mentioned

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree with the said John Hurford Stone William Jackson and divers other false traitors whose names are to the said jurors unknown to collect and obtain and cause to be collected and obtained information and intelligence within this kingdom and the kingdom of Ireland whether any and what part of the subjects of our said lord the king were disposed to aid and assist the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in an hostile invasion of any and what part of this kingdom or of the kingdom of Ireland for the prosecution of the said war against our said lord the king and to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did inquire and cause to be inquired of divers persons in this kingdom and did collect and obtain and cause to be collected and obtained from such persons information and intelligence whether the subjects of our said lord the king were or

were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion should be by them made into this kingdom for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did obtain and in his custody and possession did keep divers letters notes memorandums and instructions in writing containing information and intelligence how the subjects of our said lord the king were affected to our said lord the king and his government and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did send and cause and procure to be sent from this kingdom to be delivered in foreign parts beyond the seas divers other letters notes memorandums and instructions in writing containing information *and intelligence* how the subjects of our said *lord the king* were affected to our said lord the king and his government and in what manner the said subjects were likely to act in case an hostile invasion of this kingdom should be made by the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the prosecution of the said war against our said lord the king with intent to communicate notify and reveal and cause to be communicated notified and revealed such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did with the said William Jackson and divers other false traitors whose names are to the said jurors unknown conspire consult consent and agree to raise levy and make insurrection rebellion and war against our said lord the king within his kingdom of Ireland and to cause procure and incite the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid to invade the kingdom of Ireland with ships and armed men and to carry on the said war against our said lord the king within the kingdom of Ireland

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did conspire consult consent and agree to and with the said William Jackson and divers other false traitors whose names are to the said jurors unknown that he the said William Jackson should go to and land in the kingdom of Ireland for the traitorous purpose of procuring and obtaining intelligence and information whether the subjects of our said lord the king of his kingdom of Ireland were or were not well affected to our said lord the king and his government and were or were not likely to join with and assist the forces of the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid in case an hostile invasion should be made into the said kingdom of Ireland by them for the prosecution of the

against our said lord the king and of sending and causing to be sent such intelligence and information to the said persons exercising the powers of government in France and being enemies of our said lord the king as aforesaid for the aid assistance direction and instruction of the said enemies of our said lord the king in their conduct and prosecution of the said war against our said lord the king and did then and there maliciously and traitorously aid and assist the said William Jackson in going to and landing in the said kingdom of Ireland for the prosecution performance and execution of the traitorous purpose last mentioned and which said William Jackson in pursuance of the said last-mentioned conspiracy consultation consent and agreement heretofore and during the said war (to wit) on the twenty-eighth day of March in the thirty-fourth year aforesaid did go to and land in the kingdom of Ireland and did stay and continue there for a long time (to wit) for the space of one month for the prosecution performance and execution of the traitorous purpose last mentioned

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid after the said William Jackson had gone to and landed in the said kingdom of Ireland for the traitorous purpose last mentioned and while the said William Jackson remained and continued in the said kingdom of Ireland for the traitorous purpose last mentioned and during the said war (to wit) on the fifth day of April in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did correspond with advise counsel aid abet and assist the said William Jackson in and about the prosecution performance and execution of the traitorous purpose last mentioned

And in further prosecution performance and execution of his treason and traitorous adhering aforesaid he the said William Stone as such false traitor as aforesaid during the said war (to wit) on the said first day of March in the thirty-fourth year aforesaid and on divers other days as well before as after that day at Old Ford aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did furnish and supply and cause to be furnished and supplied and aid and assist in furnishing and supplying the said William Jackson with divers sums of money bills of exchange and notes for payment of money thereby to enable the said William Jackson to fulfil perform and execute his the said William Jackson's traitorous purposes beforementioned in contempt of our said lord the king and his laws to the evil example of all others in the like case offending contrary to the duty of the allegiance of him the said William Stone against the form of the statute in such case made and provided and against the peace of our said lord the king his crown and dignity.

The Indictment was opened by Mr. *Wood.*

Mr. *Attorney General.*—May it please your Lordships and gentlemen of the Jury; I am called upon, in the discharge of an extremely painful but a necessary and important duty, to state to you, this day, the grounds upon which a grand jury of the country have called upon Mr. Stone, now standing at the bar, to answer to an accusation of the highest nature, undoubtedly, that can be stated in an English court against an English subject. Gentlemen, we are assembled upon an extremely solemn occasion. However distressing it may be to me to execute this duty, I feel I owe it to the public to endeavour to execute it with firmness. I am sure that there is no person, who sits in this court with a temper and character that belongs to an Englishman, who will not depart from this court with great satisfaction, if, in the result of this inquiry, an English subject, thus accused, shall enable you (looking at this case with a due attention to your duty to the prisoner, whose honour, whose character, whose dearest interests, are involved in the deliverance which you are to make this day; and with a due attention, on the other hand, to the claims which your country have upon you to make a true deliverance between the prisoner and the country) to say, upon your oaths, "Not guilty," and no more. Every man, I am sure, will go out of this court extremely happy, if Mr. Stone is able to clear himself from the charge now made before you.

Gentlemen, upon the law of this case, speaking under the correction of the wisdom which presides here, and addressing myself to you, I have very little to say, because I apprehend the law of this case is perfectly clear. Mr. Stone is charged with two species of high treason in this indictment:—with compassing the death of the king; and with adhering to the enemies of the king. And there are several overt acts charged, amounting, I think, with respect to each of this species of treason, to eleven; the same overt acts being charged as overt acts of each of these species of treason.

Gentlemen, I believe it will be impossible,—and for that reason I shall not trouble you at present at length upon this part of the case,—to dispute, if the facts stated in this indictment, as overt acts, are proved to have been committed with the intention imputed in the indictment as to each and every of these overt acts, that they are overt acts of that treason, to which they are made to relate in the indictment. And it will be for you to try, upon this occasion, whether these overt acts are made out as they are laid by that ample and sufficient legal testimony, which, I thank God, the law of this country has required to be given, to the satisfaction of an

English jury, whenever an Englishman is charged with such offences as those which are put upon this record.

The first species of treason, stated upon the record, is the treason of compassing and imagining the death of the king, which is the first species of treason mentioned in the great statute of 25th Edward 3rd, upon which the whole law of the land, with reference to this head of treason, is founded; and the acts charged against Mr. Stone are, that he conspired with a person of the name of John Hurford Stone, who is his brother, and who was resident in France under very particular circumstances, which I shall have occasion to state to you presently, and with a person of the name of Jackson,* who was a clergyman, an American—I mistake, he was an Irishman—with respect to whom, I think, I may venture to state to you, that it will be proved, to a degree of demonstration that leaves not a shadow of doubt as to the fact, that the French government, intending an invasion in this country towards the close of the year 1793, or rather the spring of the year 1794, employed him to come over into this country for the purpose of collecting intelligence how far this projected purpose of the French government was likely to be carried into execution with effect here; and employed him also for the purpose of afterwards quitting this country in order to visit Ireland, for the purpose of enabling the French government to determine whether an invasion of that country could be made with success. With these two persons, and with others, the prisoner at the bar is charged with having conspired, for the purpose of assisting the enemies of the king in a hostile invasion of the dominions of the king, and in the prosecution of the war.

The next charge, by way of overt act, in this indictment, is, that they conspired to levy war in this country, and to incite the persons exercising the powers of government in France to invade this kingdom, and to prosecute and carry on the war against this country.

The third is, that Mr. Stone, knowing that Mr. Jackson came over to this country for the purpose which I have stated to you, received him and conspired with him to cause intelligence and information to be procured, for the purpose of being sent to the persons exercising the powers of government in France, to the intent to aid, assist, and direct them in the prosecution of the war. You will likewise find, that there are several other overt acts charged in the indictment, which I will not go through now, but they resolve themselves, generally, into this — that the prisoner, Mr. Stone, entered into the purposes of Mr. Jackson, and did all these acts in furtherance of the purposes of Mr. Jackson, which were to enable him to communicate to the persons carrying on the government in France the grounds upon which they were to act, in determining whether they should invade this kingdom or should invade Ireland, or abstain from doing the one or the other.

Gentlemen of the jury; having generally stated the indictment to you, and having stated, as generally, my persuasion that it will be impossible, if the evidence, being such as the law requires, makes out the fact that these matters, charged as overt acts, were done by Mr. Stone, to doubt that they are clear overt acts of the respective species of treason mentioned in the indictment;—I proceed to state to you the circumstances of this case, to the extent in which it will be necessary for me to state them, in order that you may be able to understand the evidence in the course and train in which it shall be offered to you.

Gentlemen of the jury; I introduce this statement with an observation, which I think it my duty to make for Mr. Stone, and with a statement of a fact, which, in duty to the country, I am bound also to state to you, whatever the effect of it may be. These two circumstances will be extremely material for you to attend to, when you come to hear the written evidence which will be produced in the course of this cause.

One of the persons named in this indictment, with whom Mr. Stone is stated to have conspired, you see is his brother, John Hurford Stone. A great deal of correspondence between Mr. Stone, who stands here, and John Hurford Stone, will be produced to you. Another of the persons who is named in the indictment is, as I before stated to you, a Mr. Jackson. Gentlemen of the jury, you will be satisfied, beyond all dispute, that Mr. Jackson came over here addressed by Mr. John Hurford Stone to Mr. William Stone, who now stands before you. You will likewise have laid before you some very important correspondence between Mr. William Stone, who stands at the bar, and that Mr. Jackson. With respect to the correspondence between Mr. William Stone and his brother, John Hurford Stone, it is fit that I should state to you that it will be proved, that, when the government of this country, in the discharge of what they thought their duty, or rather when one of those who was concerned in the government of the country, sent his warrant for the seizure of the papers of William Stone, that occurred which I hope always will occur in cases of this sort, as far as the ends of public justice will allow of it, namely, that the warrant was executed with as much forbearance in the manner of doing it as possible. Mr. William Stone was therefore called upon (to avoid a general seizure of his papers) to deliver up the correspondence between himself and Mr. John Hurford Stone. You will hear of the manner in which these papers were given up. It is fit that I should tell you now that they were given up, upon

* ...ial for High Treason, p. 783, of

rently, very willingly, without any concealment; that some were found, I think, in the escrutoire or bureau of Mrs. Stone; that others were found in places that I do not represent as places of concealment; that they were given up in a manner which, certainly, affords no inference against the gentleman who stands at the bar. On the other hand, it is my duty to state to you, in order that you may understand the effect of the evidence with respect to all the correspondence in the outset, that I shall call to you Mr. King, the under secretary of state, and another person, to prove this fact, viz. that Mr. Stone, who stands at the bar, was called upon to deliver up the correspondence which had taken place between him and Mr. Jackson in the names of William Enots and Thomas Popkins; that he denied that he had any such correspondence. Mr. King will inform you what part of this correspondence was nevertheless found at Mr. Stone's after this transaction passed, which I have now been stating to you; of the materiality of it, it will be for you to judge.

Gentlemen, having stated these circumstances, I proceed now to mention to you that it will appear, I think, that early in the year 1792, Mr. John Hurford Stone, who had a considerable establishment, together with Mr. William Stone and others, at Old Ford in this country had gone abroad into France, apparently for the purpose of establishing manufactures in that country, particularly a sal ammoniac manufactory. By the month of February, 1793, I think I shall be able to prove to you that Mr. John Hurford Stone had become, to all intents and purposes, what I state to be a domiciled Frenchman, devoted to the interests of the French, considering himself as the subject of France, considering himself as affected by all the interests which that country had against this country. Gentlemen, if he had acquired that character, though it might be painful undoubtedly for a person standing in the relation in which Mr. Stone at the bar stood in to that gentleman, to abstain, after the war broke out, from all correspondence with him, yet unquestionably, on the other hand, such a correspondence naturally led to a good deal of danger, and it became perhaps a more difficult thing than the most sensible man could well execute, to have interests in common with a person standing in that relation to a country, which was at war with this.

You will find, gentlemen, as you all know, for it is matter of notoriety, that a war broke out, sometime, I think, about February, 1793, between the countries—at least that then there became open war between them, as it is called *vid facti*. A letter will be produced to you, in which you have John Hurford Stone's opinion with respect to his own situation, and with respect to his notions of his own national character at that time, for, upon the 2d of February, 1793, writing over to his brother, he states to him—"Yesterday we declared war against you in due form, with the general approbation, and general regret;—Holland it is expected, will be in our power in a very short time, and this will likely bring it with England to a short conclusion." You will attend, when you hear read in evidence the substance of another letter by-and-by on the subject of Holland, to the inference which arises from this passage with respect to Holland, which would soon be, as he expresses it, in their power. Previous to this 2d of February, 1793, and subsequent to it, before the 23rd of November, 1793, some correspondence extremely material passed, which it will be my duty to produce in evidence, but as to which, for the sake of making this case intelligible, I shall reserve troubling you with an account of it till nearly the close of what I have the honour of addressing to you.

Upon the 22d of November, 1793, you will find that the French government had adopted this purpose of invading this country, and upon that occasion Mr. John Hurford Stone, by a letter of the 22d of November, 1793 (subsequent to which period I am not aware that any communication whatever was made to any persons, whose situation here was such, as called upon every subject of the country, knowing what I am about to state to you, to communicate with them) by a letter of that date under the signature of John Hurford, addressed to Messrs. Lawrence and Company, Rutland Place, Thames-street, London, some of whom will be called to you to prove that when these foreign letters came thus addressed, they were immediately carried to Mr. Stone individually, as being meant for him. The prisoner's brother writes thus—"I have reasons, at this distance, for wishing the house at Old Ford disposed of: if not by May, it will be taken."

Upon the 9th of December, 1793, you will find another letter, in which Mr. Hurford Stone, addressing it again in the same manner to Lawrence and Company, for the use of his brother, says to this effect—"I have still the same opinion respecting the practicability and profit of establishing, by-and-by, such a one here," (that is, such a manufactory as he had given it as his advice, should be disposed of in this country) but, as it is likely the whole face of things will be changed, both with you and us, there is no safety in speculation at present.—I mentioned to you about Old Ford house; were it mine, and you knew what I do, I should dispose of it at the least possible loss, and that instantly."

Another letter is written upon the 16th of December, 1793, which first discloses that project in a small degree, in furtherance of which Mr. Jackson came over to this country, addressed to Mr. William Stone, and he says in that to this effect—"I shall take an opportunity shortly to explain to you what I meant by the house at Old Ford." You see the two first letters are rather dark intimations that he

nas a knowledge of something, which, if his brother in this country knew, he would dispose of the house at Old Ford, and that instantly, as he expresses it in his letters, and then he tells him in this, that he should soon have an opportunity of informing him more distinctly what it was that he meant.

Upon the 26th of December, 1793, after speaking of the operations of France, as operations, which in truth were his, as well as theirs, and speaking in this sort of language —" We are every way invincible; and of this the taking of Toulon will serve you as an evidence, for thousands of our countrymen perished there; but this is not a hundredth part of the evil that awaits you; the Vendée is crushed entirely by this time, and troops are gathering on the coasts. I wished you to dispose of your house—you now fully understand me." There is then some short-hand in the paper, which I am not able to read, but taking it at present as blank, it will run thus ——— " must take place."

Upon the 16th of January, 1794, another letter is written by Mr. Hurford Stone to his brother, in which he says to this effect—" I note what you say about the manufactory, and Old Ford house; the person alluded to" (whom you, gentlemen, will find presently to be this Mr. Jackson) " will explain all the mystery—you will treat him with hospitality, for he is very much my friend." In another part of that letter, speaking about a publication, which was to be a national publication for France, a literary publication, he says of that also—" This will be explained to you in a day or two more fully by other means." Then, in the same letter, he refers to something which I am at a loss to explain, but which I think it my duty to read to you. He says, " I speak to you hesitatingly about every thing, nor can I speak with more assurance, till I see the event of the 21st instant," (that is the 21st of January); " I cannot convey you our anxiety, nor our resolve: the events of the last month will have given totally a new turn, and it presents to my mind the most pleasing prospects, not only for my own interest, but for that of mankind: the events of the succeeding month will be more astonishing to you, and in the same way, than the last."

Gentlemen, upon the 17th of January there is a more direct communication of the purposes, with which this gentleman, the clergyman, Mr. Jackson, came into this country, whom I first mentioned as an American, forgetting that he was an Irishman, being led to treat him as an American, by a passage which is in this letter. Upon the 17th of January he says to this purport—" I have written to you by a gentlemen, an American, who will call on you, and give you a very long detail of various things." You will find afterwards that Mr. Stone, in all the conversations, which it will be my duty to open to *you*, represented Mr. Jackson, naming him *to be an American*. After the words, " Who will call upon you and give you a very long detail of various things"—he proceeds,— " You will receive various propositions, which you will weigh, and consider; he will instruct you also what I meant respecting Old Ford house; but the events of the last months I think will make any farther consideration of it unnecessary." You will see by-and-by that his opinion about that is altered. He proceeds, " At least we think so on a thousand other important accounts, in which what I said on Old Ford was but a very slight part. However I might be interested on your account and my own it is likely will not take place, but all depends on the 21st, if it should, you had better be in town, and Mrs. S. in the country; but all this depends so much on circumstances, that it is folly to speculate. I hope the may be averted; if it be not, I will more fully explain myself. I refer also to my American friend for intelligence respecting the magazine," (that literary work in which these gentlemen were engaged). Here is a passage, you see, in which a hope is expressed, that it might be averted; it will be for you to judge, by-and-by, under the direction you will receive, and attending to what shall appear, in your own minds, the just inferences from all the facts of the case, whether passages of this sort, where they occur, are not inserted for the purpose of giving colour to the project, with the guilt of which this indictment charges Mr. Stone at the bar; and to judge, under the direction that you will receive here, whether, attending to all the circumstances proved, and all the inferences arising upon all passages in the whole of the correspondence to be laid before you, any colour can be given to render the acts done by this gentleman, and stated in this indictment, to have been done by him, innocent acts, not referable to the intention charged upon this indictment.

Upon the 24th of January, 1794, a letter appears to have been addressed by John Hurford Stone, under the name of Benjamin Beresford, (a name, which I must beg your particular recollection of throughout the whole of this case, because you will see in what manner the intelligence from this country was communicated by means of that name) this letter, in the hand-writing of John Hurford Stone, appears to have been addressed to Messrs. Lawrence and Company, in which he acknowledges the receipt of various letters, and desires his brother to address them in future to a place at Liege, stating that he gets them a day sooner. There is a passage in this to this effect, after stating certain transactions: " All this you will find explained in my letter to our philosophical friend, if it be received. I have written to you two letters by an American friend, to whom I have given a letter of credit on you for what monies he may want; having received here, and arranged the mode of receiving whatever you may pay him; you will receive of course the

amount in return. I have recommended him to you as a person with whom he will have much business to transact." What that business was must be explained to you on the part of Mr. William Stone; "he will have much business to transact of various kinds; and with a reference to this," (that is, to the much business which he had to transact of various kinds; though, if I am rightly instructed, Mr. William Stone will not be able to prove that this person, with whom he had so much business to transact, was ever present with him in the presence of a third person upon any transaction whatever of business) "and with a reference to this, I am rejoiced that you are getting disembarrassed of your present engagements so far as you relate. I trust you will find your future one incomparably much more worth your attention. I enter into no detail in my letters, but leave himself to explain the business." In another part of this letter he states to this purport; "I wish nothing decisive to be done till about the middle of next month, by which time you will be able to know more effectually how to act." In another part he says, "I notice what you say about Whitbread's application, it is well, but I hope, as I have above said, that you will have business infinitely more worth your consideration: if you have a partner, and ten or twelve thousand pounds, as I hope by what you tell me, you will be left more at leisure to attend to my friend's propositions. You will be surprised in reading my latter letters, to see how I waver on the subject of the House" (that seems to me to be the house at Old Ford). "I do not think that all this preparation is absolutely necessary; the immense destruction, lately undergone, must give a new change; but, so far as I am concerned, pray do not dispose of my pictures to such a Goth as J. Cooke. Do you know that some of them are beyond any price; for instance, the twelve small ones are originals of Teniers. I have the plates here of the very pictures, and the others are almost all originals. If you wish to get rid of the house, it is very well; if not, stop a little till you see my friend." Then he says, and that is a circumstance that of itself would prove his national character undoubtedly for the purpose of confiscating his property, and most other purposes in a question of peace and war. "A man, who has established three different manufactories in a country, has a right to some consideration: Thank God, I enjoy more than my share." And then, at the back of that letter is written these words; addressed from a British subject, resident in Paris, to a subject resident in England, and speaking of British ships, "We have taken fifteen merchantmen, and the news is, that we have taken fifty-two more."

Gentlemen, upon the 14th of February, 1794, there is another letter from Hurford Stone, signed John Hurford, directed in the same manner, in which he says (and it is necessary to beg your attention to this, with reference to a fact that I am to state by-and-by) in which he says, he had removed his account to the House of Jean Louis Bourcard at Basle; that Mr. B. Beresford was their resident there; that, as business called him into various parts of Switzerland, letters might be forwarded to Beresford, at the house of Boucard: and then he mentions two bills that Beresford had drawn upon William Stone, and mentions another circumstance, viz. "that the sum of five thousand pounds had not been received by the Ostend Diligence." What that relates to it is impossible for me to explain, but in this letter (and this will deserve your attention), it is stated also thus, "Mr. B. has made payable at your house, in case of need, three hundred pounds, on a banker at Dublin; and seventy-five pounds on a house in London. There is no doubt of their being honoured; but, if any difficulty should arise, he holds the full property in American bills on Amsterdam, which shall be forwarded instantly to you; if there is any demur, you will not suffer them to go back."

Gentlemen, you will hear of the bills upon Dublin in another part of the evidence, which will be produced to you.

Upon the 16th of February, 1794, you will find another letter from Mr. Hurford Stone, addressed likewise to the house of Lawrence and Company, but for the use of William Stone, in which he says this, "In answer to the last, after thanking you for your trouble, would wish every thing to remain *in statu quo*, as I do not think it worth while to dispose of any part; first on account of Mrs. S. to whom most of these objects are precious, though otherwise of no value; and next, the rest will be of much greater service to me here; that is, the linen, &c. than what could be got for them," He speaks again upon the pictures, and says, "in saying this I have not much changed my sentiments as to the motives, which led you to take this trouble; the thing is as fixed now as it was then; but circumstances may change, and render it unnecessary." Now I would beg your particular attention to this passage, because if the matter described here under the words "the thing," &c. mean the invasion; and that that is as fixed on now, as it was then; and that circumstances relative to invasion might change, and render it unnecessary, then I think you will not hesitate to say, that the subsequent part of the letter points in fact to that information, which was to be gained by this American friend, as constituting one of the circumstances, in consequence of which that change might take place in that project, which is represented in this letter to be fixed. The letter proceeds, "I refer you to my American friend, and the letters which he carries you, for all that I should otherwise write on that head." Now what was the head, upon which Mr. John Hurford would otherwise have written, and with reference to which he

refers Mr. William Stone to this American friend, connected with that thing, which in this letter is said to be as fixed now as ever it was, but which might change in consequence of circumstances? It ought undoubtedly to be in the power of Mr. William Stone, to explain this, when he explains to you also the various businesses, relative to which a former letter has stated to you, that this American gentleman was addressed to Mr. William Stone. The letter proceeds, "but not recollecting that his business would take him so great a round, or rather not knowing it till after his departure, I have delayed writing by the post, which will have occasioned you, I fear, some uneasiness." Then, in another part of his letter, he states this, "If the plan you are to be consulted on, takes place, you will see the necessity of disembarrassing yourself more. I enter into no particulars, as you will receive otherwise such ample information.—But you do wrong to be anxious, as it may not take, though it appears absolutely necessary. Commercial schemes, like others, are sometimes visionary: here however there is solid ground. You are mistaken if you think I have changed my opinion respecting the propriety of leaving the house. I have only suspended it. Judge yourself from what you hear. I only observe that the plan is not laid aside, and, if it be put into execution, your position there," that is (as I construe it) in England; "will certainly be a very losing one."

You will allow me here, when this language relative to commercial schemes first occurs, to state to you that you will find, by-and-by, that each of these letters (which you can have no doubt at all, upon reading them all throughout, have a clear relation to the state of the government of Ireland and of England, as being or not being that state, which afforded an invitation to the enemies of this country to invade the one or the other), is calculated to describe England and Ireland under the character of commercial houses, dealing in linen drapery goods and manufactures, and under other phrases and expressions, the purpose of using which character and expressions was, to give a colour in each letter to this business, which might make each unintelligible in case it fell into hands, into which it was not meant that it should come.

In another letter, dated the 4th of March, 1794, you will find again that the change of the address is mentioned from Aix la Chapelle, to the house of Jean Louis Bourcard, at Basle, instead of Liege; and then it states that Beresford was resident in Switzerland. In that letter he says, "I told you also in my letter, that I had received a letter from the American, who was then going to London: you will have seen him by this time." In the former letter it is stated, that he had various businesses to arrange with Mr. Stone, in London: you will find by this letter, that the businesses which Mr. Stone was to arrange with him, were the businesses of him, the American. Your attention will be given to this expression; "you will have seen him by this time, and will have arranged his affairs with him."

Gentlemen, these letters having preceded the arrival of Mr. Jackson in this country, I take them to be extremely important to be stated to you; because there can be no dispute with me, I apprehend upon this, that, when Mr. Stone had received these letters, he had received intimations of the purposes and events with reference to which this Irish clergyman, represented as an American gentleman, came into this country, which must, of necessity, give a character to the negotiations and transactions of Mr. William Stone with this person whilst he was in London; and that it will be impossible for Mr. William Stone, after this, to insist (much more impossible when I have stated to you other correspondence in the close of this business) that he could have a doubt that Jackson came here for the purpose of learning the state of this country, with respect to the probability of successfully invading it, and for the purpose of communicating intelligence upon that to France: and I take it that the conclusion imputed by the record follows clearly in law,—if he assisted Jackson with this intelligence, when he could not but know that Jackson came to this country for the purpose of acquiring it, in order to make that communication to France,—I conceive then that the consequence necessarily follows; but it will be for my lord to state a much better opinion upon that than I can hope to offer to you.

Gentlemen, Mr. Jackson arrived at Hull from Hamburgh upon the 26th of February, 1794; he came immediately up to London; and I shall connect most decisively the prisoner, William Stone, with the person whose name is upon the address he left at Hull to himself at Mr. Cokayne's. When I mention the name of this person, I shall trouble you with an observation upon it, with reference to this case, which appears to me of importance. Mr. Jackson left with the master of the vessel, or some other person at Hull, who will be called to prove the fact to you, an address to himself in these words---"Enclose a letter to me thus---For Mr. Jackson, John Cokayne, esq. Lyon's Inn, near Temple-bar, London." In the course of this cause that Mr. Cokayne will be called to you. You will perhaps be told that he was employed for the purpose of watching the actions of Mr. Jackson; and upon that much imputation will perhaps be attempted to be made with respect to Mr. Cokayne's evidence. If it goes to this extent it is fair.—I mean that the evidence of persons standing in the situation in which Mr. Cokayne stood, is to be received with great jealousy; and that it is the duty of the court and the jury,—I presume to state that under my lord's direction,—to guard the prisoner with respect to the effect of the in-

timony of a man standing in the situation in which Mr. Cokayne will be proved to you to have stood in this business. But, gentlemen, I hope I shall not hear it permitted by this court of justice that observation should be carried farther than this. If the evidence of Mr. Cokayne is decisively and clearly, and beyond all contradiction confirmed, I hope I shall not hear it permitted by this court to be stated that no credit ought to be given in a court of justice to a man whose testimony is consistent, credible, confirmed, and made indubitably strong by the written evidence in the cause, because that man stood in such a situation as Mr. Cokayne did. Such a person is not to be treated improperly in a court of justice; nor are a jury to be even addressed with any hope that such an address should succeed, upon the principle that no credit should be given to such a testimony. The evidence of such a person should be watched with an extreme and an anxious jealousy I do admit; and, owing a duty undoubtedly to the prisoner here as well as to the public, I join with those who call upon you to examine the evidence of that person with great jealousy and great attention; but I say also that it is due to justice and to the witness, that the true effect of his evidence should be given to it by the jury.

Mr. Jackson having come into this country, it will be clear to you, beyond all doubt, upon the evidence which I am going to state, that his communications in this country were with Mr. Stone, now at the bar.

Gentlemen, I may have occasion, in the course of this cause, to state to you a reason for the absence of some witnesses; whose absence, though I feel that their testimony might be material to the justice of the country, I have not, upon the whole, thought to be a sufficient cause, considering the attention due to the prisoner as well as the country, for postponing this trial. You will find, that whilst Mr. Jackson was in this country, he was not seen by any body, as far as I can learn, except Mr. Cokayne, who will be called to you, and except Mr. Stone, whom it is clear he did see. Mr. Stone made several applications to a great many individuals in this country, for the purpose of knowing their opinions with respect to the probability of success if there was an invasion of this country. And here, gentlemen, you will allow me to say, that amongst those whose names I have to mention in this cause, there are some for whom, undoubtedly, I have that respect which men of this country in general have; there are some for whom, personally, I have a very great regard; but I will not disguise in this place, that I think the discretion of some of them was surprised, and I say no more.

Gentlemen, I think myself entitled to state to you (making it evidence by what I shall represent to you presently) that applications were made to several persons by Mr. Stone; for what purpose, whether with an intention on his part—(for there might be an intention on his part very different from the intentions of those to whom he applied)—whether with an intention on his part to benefit this country, or to enable Mr. Jackson to benefit that country from which Mr. William Stone knew he came, with reference to this subject of an invasion, you will judge: but you will find that he applied to a gentleman of the name of Vaughan, a very considerable merchant in the city, who is now absent; and the endeavours, on the part of the prosecution, to bring Mr. Vaughan here as a witness, may be given to you in evidence. The result of his communications with Mr. Stone are capable of being given in evidence, without personally calling him; and Mr. Vaughan entered so far into the consideration of this subject, as to put into the hands of Mr. William Stone a paper, which I understand was found when a seizure of his papers was made, which I shall state to you presently, and which paper you will see is in part the ground-work of some other papers sent abroad, which I shall also state to you presently.

Gentlemen, you will likewise find that he conversed with another respectable gentleman, of the name of Smith, Mr. William Smith, who will be called to you. Mr. William Smith put into his hands also a paper, which will be read to you, and which you will likewise see served as part of the ground-work of those papers that were sent abroad. You will hear from Mr. Smith what he has to state to you of the manner in which the communication was made to him and by him. I shall not prejudice the effect of that evidence by saying any thing at present upon it.

You will likewise find that applications were made, I think, to Mr. Sheridan; I think, to my lord Lauderdale; and to a gentleman of the name of Wilson. You will hear those who are called state to you the representations which Mr. Stone himself made to them. If I am rightly instructed, and I think I cannot be erroneously instructed, considering the source of my instructions, it will be stated to you, that to some of these gentlemen this American was stated as a person who had some sort of authority to make a treaty for peace, or to converse with respect to a treaty for peace; to others of them it was stated, that this gentleman had learnt from Mr. John Hurford Stone, that he had been representing to the persons in power in France (with whom I shall show you presently he had a very strong and powerful interest) the improbability of an invasion into this country being attended with any success; that Mr. Stone in France had therefore become obnoxious to the ruling powers in the government; and that it might be of very great use to his brother, if representations could be sent from this country from persons of weight and consequence, which would confirm those representations which his brother had been

so making in France of the general dispositions of the people of this country.

Gentlemen, you will find, and it is my duty to the public to call these gentlemen to prove that fact, that they, one and all of them, intimated (as soon as it was stated by Mr. Sheridan) the impropriety of having any conversation with such a man as Mr. Jackson, who had come from France under such circumstances as were represented, though favourably represented; you will find that they, one and all of them, joined in this sentiment, which one should have thought no discreet person could have failed for a moment to have suggested to his own mind, viz. that, if this subject of an invasion was mentioned, and which you see had been mentioned in these letters of Hurford Stone from the 22nd of November, 1793, it was the duty of Mr. Stone (who, I again state to you, as far as I can learn, made no communication to government subsequent to the 22nd of November, 1793, nor for a long period before it) to state to Mr. Dundas,* who was then the secretary of state, the information which was so received, and to wash his own hands of it. I recollect also, that two other gentlemen, Mr. Towgood and Mr. Rogers, whom I take to be friends of Mr. Stone, joined in the representation I have stated with respect to the imprudence and impropriety of holding such conversation as this, excepting to that one person.

Gentlemen, after this had passed, seeing, as Mr. William Stone must have seen, what was the purpose of the enemies of this country; and seeing, as he must have seen, in the correspondence that I have before stated to you, that an invasion into this country was at least meditated, so much, that a brother, settled there, had advised him to disembarrass himself of his partnership concerns, and sell his house at Old Ford—it will be for you to decide—and thank God that this case is in the decision of the jury of the country, who are able to correct, if there be any thing to be corrected, the impressions which cases of this sort may make upon those whose duty it is to prosecute,—it will be for you to decide, upon the whole of the transactions of this case, the possibility of an innocent intention on the part of the gentleman who stands at the bar.

Gentlemen, I will now read to you two papers, which were found in the possession of Mr. William Stone, the one supplied by Mr. Smith, the other supplied by Mr. Vaughan; and I shall then read to you two other papers, which I have no doubt I shall be able to make evidence in this view; namely, that if they appear clearly to be papers written by Mr. Jackson, after I have proved Mr. Jackson and Mr. Stone together, so as to be able to introduce Jackson's acts; and, if they are proved to be papers which are grounded upon those very papers that were found in Mr. Stone's own possession, I say, then, they are neither more nor less, without more evidence, than a farther act done by Mr. Jackson in the prosecution of the conspiracy charged, done by one of the parties concerned; but I shall go farther than this, because I shall call the secretary of state to prove another fact. I am sure it cannot be expected, and I think it will not be ruled, that a secretary of state should, where he cannot, consistently with the interests of his country do so, state particularly how a paper was sent to him from abroad, but that he may be allowed to prove generally that, through his official correspondence, he had actually received a material paper from abroad. You will have evidence of this sort from the secretary of state, that not only the papers were written to be sent abroad, but that they actually were sent abroad in pursuance of that intention.

Gentlemen, I proceed now to state to you the substance of these papers, which I have represented to have been found in the possession of Mr. William Stone, and to be the ground-work of those communications, which you will find were afterwards made to France in the hand-writing of Mr. Jackson, and I shall then lay before you the correspondence which passed between Mr. William Stone and the brother, pending these inquiries in England relative to these papers, one duplicate of which I hope you will be satisfied, arrived at the place of its destination.

One of these papers is as follows:—"Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs." This paper is furnished by Mr. Vaughan. "There are no petitions against the war; there are courtly verdicts given by juries, with few exceptions: there are no mobs, though much distress: there is much readiness to enlist as soldiers: there is much quietness on being impressed on the part of seamen."—You will see presently, by a letter, found in the possession of Mr. William Stone, what information his brother told him, as early, I think, as the beginning of 1793, or the latter end of 1792, he had given Brissot and other persons in power at that time in France with respect to that circumstance of the readiness of impressing seamen.—"There is much quietness in being impressed on the part of seamen; the votes of parliament are nearly unanimous, though the parliament has run through half its length, and the members of the House of Commons look to their re-election. The stability of lord Chatham"—then first lord of the admiralty of this country—"continues in defiance of all his neglects; terror pervades the friends of liberty, who would soon show a different appearance, if they were countenanced by the majority of the people."

You will find in one of these (for there is a duplicate of these papers) there originally

* See his Trial, when viscount Melville, A. D. 1806, *infrd.*

stood this passage, of which, though attempted to be erased by a pen, the words are still extremely visible. After the passage I read—"Terror pervades the friends of liberty, who would soon show a different appearance, if they were countenanced by the majority of the people," the words were, "Seeing there are no regular troops in England but militia, and a few cavalry, who are stationed near the coast only." "The temper of England is in favour of the first French revolution, but not of the second; however, on the whole, it shows symptoms of being adverse to the present situation of the war, not from disliking its principles, but from seeing little profit in it; at the same time that they think its main object unattainable; namely, the overthrow of the present French system. They would be more earnest for peace, had they either suffered enough, or did they think the present French government sincerely disposed to peace. There are many persons attached to the principles of the French revolution in England, if they are reckoned numerically, but they are as nothing compared to the great mass of the people, who are indisposed to them. In Scotland the proportion of democrats is increasing, but they are as yet but a small minority. Ireland will follow the democracy of Scotland, but will remain quiet at present; each of these countries wants time only to convince itself in its own way; but it will not be convinced by French principles, and still less by a French invasion."

In one of the papers is this passage, that is omitted in the other. "With the same ease with which France furnishes a navy of sixty-eight ships, England could furnish twice that number; she would, besides this, borrow ships from Holland, Spain, and Portugal, and man them with a mixture of landsmen and foreigners,"—"If France were to invade England"——Here the two papers are the same —"Every man would turn out from good-will, or from fear, and the few, who are discontented, would be quelled with ease, as the French citizens were by La Fayette in the Champ de Mars, or the disaffected lately by the commissioners in Alsace."

"Wars being but the means of attaining peace, and the well meaning among the subjects of the confederates being told that the French are so adverse to peace, or ask such preliminaries that it is in vain to treat with them, it would be highly useful if France declared, after any new successes, which she may hereafter obtain, her aversion to conquest, her disposition to peace"—And then in one of the papers you will see, though in some degree erased, these words—"And the terms on which she would treat, if these were moderate, magnanimous, it would have a wonderful effect on the people of this country, in creating an aversion to the war—liberating the unaccused English by a decree restoring to them their property, and giving them leave to depart."

Then the papers again are the same, when they proceed—"Her desire to let other nations govern themselves: her determination of changing this system, if the war against her is continued, and it would be useful also, if every convenient opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace; and also, if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language, which has an astonishing effect in pacifying the English, and indeed in pacifying Europe."

Then follows in the one—"It would tend much to conciliate the minds of the English were the Convention to decree the liberation of all the English now in a state of arrest, unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country, within a certain space of time. It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war. It would be very adviseable to have copies of the more important reports and decrees lodged at Havre to come hither by neutral vessels for the purpose of being translated."

In the other it stands thus—"The great objection in the English to treating for peace, lies in the fear that the proposal will be rejected by France, particularly without some strange preliminaries are acceded to, such as acknowledge the sovereignty of the people, &c. &c. They suppose too that France cannot treat for peace till the French territory is cleared of its enemies, whereas the constitution only says that peace shall not be concluded without it. Query, does not the forced loan allow the lender to take lands in exchange for his debt?" Then it follows—"There could be but one line of conduct for Englishmen to pursue should the country be invaded on such an occasion, there would be but one mind through the whole nation, they must defend it."

The other paper, which contains the sentiments that I am about to state to you, Mr. Smith will inform you that he furnished, and he will state to you under what circumstances. "Dear sir," (this is in the form of a letter to Mr. William Stone) "I was a good deal surprised the other day, at the degree of credit which you appear to give to the rumour of a French invasion, but as I know many are of your opinion, and many more affect to be so, I feel desirous of stating to you the reasons why I cannot but disregard any such apprehensions. In the first place, nothing appears to me more clear, than that those who are now at the head of affairs in France, are too wise to make such an attempt without a prospect

of some advantage, adequate to the risk which must be incurred by both the army and the fleet employed in the service; and this advantage, I should think, must be something more than merely the burning of a few towns and villages (supposing even that to be accomplished) or the creation of a temporary alarm. From general history too, and yet more strongly from their own recent experience, 'must they be aware of the difficulty of a hostile army's making any lasting impression on a people unwilling to receive them, and especially on an island in possession of a superior navy, and which can at any time call other fleets to its assistance.

"If all this be true, it is scarcely reasonable to expect such attempt, unless the French flatter themselves with the hope of co-operation on this side; an expectation, as far as I am able to judge, still less likely to be realized, than even that of success without it. What numbers here are disgusted with the war, I have no reason to doubt, but no symptoms have yet appeared of any general disapprobation of government; on the contrary, ministers seem to have been successful in raising a strong spirit of attachment to every branch, I might almost say, to every abuse of the constitution, nor do I think it possible for any man, who impartially views the state of things, and of parties in this country, to expect any other effect from an invasion than an almost universal rising of the people to defend themselves against an attempt, which they would consider as levelled at their constitution and liberty, and which they would, therefore, execrate and resist, as much as the French did the duke of Brunswick's irruption.

"Much has been said of the progress of French principles here; if by this be meant no more than that at one time the opinion was rapidly spreading of the French Revolution having a favourable aspect on the happiness of Europe, and of mankind, I firmly believe it, and I believe also that a pretty general persuasion also prevailed of the existence of such abuses in our own government, as required a reformation speedy and effectual; partly, however, from natural causes, and partly from artifice, I am convinced that these opinions have much decreased both in force and in extent, and that, though the tide may turn, yet that it is not by an invasion that such a revolution would be brought about; we should only wrap our cloak tighter around us, like the man in the storm, and refuse every offer of fraternity, which came in so questionable a shape.

"Sincerely wishing for peace, and thinking that these rumours of invasion are industriously circulated with a view of exasperating the people, and of rendering them more in earnest for the war, I should be very desirous of stating publicly in parliament every idea I have here communicated to you, if I did not know that my general attachment to the cause of liberty, and the satisfaction which I have repeatedly expressed at the overthrow of despotism in France, have rendered me, to a very considerable degree obnoxious, and expose my sentiments to misrepresentation of the most invidious kind. I trust, however, that a more pacific and liberal temper will prevail."

Gentlemen, these having been received by Mr. Stone, you will find from what I am now about to state to you, that they were communicated to Mr. Jackson, and the use that was made of them you will find, in other papers I am now about to mention to you. The papers which Mr. Jackson sent, though grounded upon the papers which Mr. Stone furnished, are papers that may suggest observations, as applying to persons to whom few men can think them justly applicable, and to whom they are not justly applicable; but it is natural that persons who come over here for such purposes, as Mr. Jackson unjustly unfairly came over here for (whether with Mr. Stone's knowledge he so came, it is for you to judge upon the evidence) it is of course that they should wish to give importance to their communications. In making communications, therefore, they carry the matter further than the truth will justify. The first I produce to you is dated 16th of March, 1794, and you will have reason to see that this letter of the 16th, is a duplicate.

"Lest a duplicate of the enclosed paper may not have reached you, I now transmit another copy." You will see, by-and-by, that in a letter from John Hunford Stone to William Stone, he states, "that he had received one of the papers," and it must be left to you, upon the whole matter of the evidence, whether it was or not that one of the papers so received, which formed the duplicate of what I am now reading. It goes on thus—"As I have written to you by every channel, and not through one received a line in answer"—this is in Mr. Jackson's hand-writing, and in the same hand-writing as the direction left at Hull for Mr. Cokayne, and then it again proceeds —"You may naturally suppose I do not find myself altogether easy in my mind, particularly as certain inquiries are making respecting me in a quarter unfavourable to your views and mind. I set out this evening for your native soil,"—gentlemen, you will see presently, perhaps, reason to satisfy your consciences that this letter was addressed, attending to this passage, to a person of the name of Nicholas Madgett, who becomes a very important character in the drama of this business. The letter then proceeds—"And during my absence the relative of our common friend will do every thing his zealous of principle, and good heart shall direct. I trust that my last letter gave you a thorough insight into the temper of the people all this country, so as not to leave you any ground to suppose that they would support the British in any of their hostile views on [illegible]

your friends in Amsterdam"—(you will attend to the colour of this letter, because nobody can doubt of the errand on which Mr. Jackson came here, and yet you will observe the face of this letter is all loyalty to this country)—"your friends in Amsterdam may be perfectly safe on that head, not but that there are many here, who are surprised that the French, if they really intended a descent, have not effected it to the northward of the Downes, where as at Shields, Newcastle, and other places, there is nothing to oppose them; they might destroy the coal works with the greatest ease, if they should not choose to keep their landing; shame on the neglect of our ministers in not better defending the coast. You ask my opinion on the hope of success entertained by ministers here. I know you to be a staunch friend to England; yet I will not deceive you: from what I can collect the chief dependence of ministers here for success, is on some machinations, formed in conjunctions with agents in their pay, to throw all into confusion at Paris. In the government department, a person with whom I conversed yesterday, and who has an interest in the True Briton, a paper set up by government, told me, that in less than a week, all Paris would be in anarchy—that Robespierre and his party would be sent to the devil, as those, who would put every thing to rights, had got hold of the people. It is not by campaigning, but intriguing, that we must prevail: on this principle assignats are forging every day here, and I will endeavour in my next to send you some, that you may know the true from the false: a Madame Beaulieu, whose husband they tell me is at Paris, and who when here, passed for a flaming democrat, has circulated to the amount of ten thousand pounds worth;" and so he goes on.

Without going through the whole of this, you will find when it comes to be read, that it is of the same tenor and effect, as that paper which was found in the possession of Mr. William Stone. Then here is another paper, which is, as precisely as possible, a copy of the letter of Mr. Vaughan, and a copy of the letter of Mr. Smith, but containing also some observations upon both; and it ends with, "enclose it to Mr. Parkins, at Mrs. Brown's, Globe-tavern, Hamburgh. He will give it me if I am there, or forward it; look for my letter of last Tuesday. Remember me, my good sir, to our common friend; may we soon again meet at the English house, Amsterdam." Gentlemen, you will keep in your recollection the fact that these papers contain, with additions very worthy of attention, the substance of what I before read at length.

Now, the papers I have read at length, having been put into the possession of Mr. William Stone, Mr. William Stone having been cautioned, as, if I am rightly instructed, it will be proved to you he was cautioned, with respect to this Mr. Jackson; knowing, as I think you can have no doubt from the letters I have stated, that Mr Jackson came over here, though upon affairs of various sorts, as some letters express---which affairs must be explained on his part---yet unquestionably also to inquire into the practicability of an invasion, as appears from the letter with reference to an invasion, in respect of which Mr. Hurford Stone had directed him to disembarrass himself from his concerns in this country, and get rid of his house at Old Ford. The first thing to be accounted for, and which places Mr. William Stone in a very different situation from those gentlemen, by whom, at his instance, those representations were made, is this: Why did he, thus cautioned, and without any communication with those gentlemen, put into the hands of Mr. Jackson, knowing what he knew of Mr. Jackson, the means of communicating the effect and substance of these papers abroad? It will be proved to you that they were so communicated.

I will now read to you the correspondence of John Hurford Stone, written during these transactions. You will find that a letter is received upon the 15th of March, in which he says, "My dear sir," (this is from Hurford Stone again, addressed to Lawrence and Company) "I have this moment received your letter of the 4th of March, in which you inform me that you have seen Mr. J. and very prudently desist from any but general observations." Then follows a passage, material in two or three points of view; it is material to call your attention to it on behalf of the prisoner; to call your attention to a construction of it also (which it will be for you to judge whether it be the right construction of it) on the part of the public. He says, "it is very possible that you may correct his views." The counsel of Mr. Stone will say, that this was all done by Hurford Stone, to enable Mr. William Stone to correct the views of Mr. Jackson with respect to an attempt of the French to invade England, and so to prevent invasion, and to benefit England, but this is clear, that Mr. William Stone could not correct those views without knowing what those views were; he must know therefore an invasion was intended: if it were to be left to you to decide from all the evidence, whether those views were to be corrected at the desire of Hurford Stone and Jackson, for the benefit of France, or for the benefit of England; I should say, that intelligence communicated, under which intelligence it is meant that the enemy should profit, is intelligence to aid and assist the enemy, and such as cannot be sent without incurring the guilt imputed by this indictment. But I say farther, that the expression, "correcting his views," must be considered with reference to all that was intended, as intention has been proved from evidence already stated, and as it may be collected from evidence which I am going by

and-by to state; and especially from the correspondence between Enots and Popkins, of the existence of which, if I am rightly instructed, the prisoner at the bar even denied his knowledge. The letter I was stating proceeds thus, "I suppose we shall hear from him in due time, as he will have the means of sending: he has no doubt communicated to you all that was expedient:" you recollect, gentlemen, John Stone told William, in a former letter, that he was to be consulted by Jackson upon the plan. He adds, "and I trust to him for the means of re-communication."

Upon the 30th of March, 1794, there is another letter, in which he says, "I have also received our American friend's letters, and you must tell him, that, having given them to the proper people, he must in future address his friend Nicholas, and not me." The word *Nicholas* will be explaind by a subsequent part of this evidence.

Now, gentlemen, if Mr. William Stone, under the circumstances of caution, which I have before stated to you he received, thought it proper to furnish Mr. Jackson with the means of making the communications to France, when he received this letter, one should have thought that he would have desisted; that he would at least have inquired who this Nicholas was, to whom these letters were to be sent in future. If Mr. William Stone can satisfy you that he did so, I am sure I shall thank God when I hear the evidence; but it is my duty to call your attention to all the circumstances in this case, and I profess I do not see my way through them at present.

There is another letter of the 8th of April, 1794, from Mr. John Hurford Stone: "We have received your late letter relating to the late act to prevent payment of bills for the use of persons in France:" You will see by-and-by, though this is not material upon this record, not being there charged as a crime, that that act certainly did not prevent Mr. William Stone from furnishing Mr. Jackson with money, for the purpose of going to Ireland, though that Mr. Jackson had certainly come from France. The letter proceeds thus: "The packets you allude to have not yet been received, and we know not where they rest. I have given all the information which I could on the subject, but do not choose to trouble myself too much. I wrote to you a post since, to desire you not to write to me, as I did not know exactly where I should be." He says, in another place, "As to our American friend, the account I gave was very satisfactory, and to myself highly useful." Very satisfactory! to whom satisfactory? "To the proper people, to whom it had been delivered"—Persons who had clearly en-

"Mr. Jackson with a mission into this

whether this country could

satisfactory to them? It

ry to them for no other rea-

son, but because it arrested that invasion, which was intended at the time at which this communication was made, and because it informed them that, if they had taken the measure which they proposed to take, the unanimity, courage, and firmness of Englishmen, would have defeated that measure, and have made the project abortive. He proceeds, "and to myself highly useful; but it is strange that his relations hear nothing from him. I would rather that he did not write to me so much on the subject." Now this letter states to Mr. William Stone, that he would rather Mr. Jackson did not write to him, Hurford Stone, so much upon the subject, and yet that very Mr. William Stone as you will see afterwards, corresponds with this person, whom his brother is unwilling should be his correspondent, in the names of Enots and Popkins, with respect to the state of Ireland, as I shall submit to you, for the purpose of enabling a communication to be made of the state of Ireland to the French. He proceeds again thus; "Our friend you tell me is gone to Ireland; the business he spoke to you on,"—Now it will be for Mr. William Stone to explain what this business was; but, after hearing the passage I have just read, I think you cannot doubt what it was—"the business he spoke to you on is interrupted by this paper, which you sent me; however, it may produce very beneficial effects." Then at the bottom there is, "Enclosed is a letter to Rowan." When you come to see presently what passed in Ireland, and with a gentleman of the name of Hamilton Rowan,* you will see the materiality of this.

Upon the 21st of April, 1794, another letter is written, which is to this effect; "The accounts which we received from you"—and this expression which follows will deserve your particular attention, because it is an expression so perfectly similar to those which are contained in the letters to and from Ireland, that it seems to me impossible but that the phraseology, in which these persons were to correspond, was known in Ireland, in England, and in France, at the same time. "The accounts which we received from you respecting the house concerns, which your American friend has talked to you on, has given much satisfaction, though they hoped to have had something more favourable. It is strange that we hear nothing farther of the arrival of Mr. I.; an acquaintance from Boston told me a few days ago his journey was retarded. The shipping business is under consideration, and you will hear from us."

Gentlemen of the jury, these letters passing, Mr. Jackson set off for Ireland, I think, upon the 23d of March, and arrived in Ireland upon the 1st of April. Mr. Jackson, you see, according to the representation of him that has hitherto been made in this correspon-

* See his trial, *ante*, Vol. 22, p. 1032, and his Statement as cited p. 810 of this Volume.

dence, was to come into this country to do a great deal of business, of some sort or other—he was represented to every body as an American merchant, not being such, but an Irish clergyman. If he had had a great deal of commercial business here, one should have thought that he could not be destitute himself of the means to take him to Ireland; and yet, upon the 15th of March, 1794, Mr. Jackson settles an account with Mr. Stone, and receives from him fifty pounds in cash, and two bills upon Ireland, one for twenty pounds, the other for twenty five pounds, and with this money, paid to him directly contrary to an act of parliament too, which prevents the payment of money to any person coming from France (and the policy of which act, by the way, is a little seen in the present case), he goes to Ireland---but he does not go to Ireland without leaving in the hands of that Mr. Stone, who had received all these cautions, a small, but an excessively important paper. I hope to God that it can be explained, but it deserves your most particular attention---he leaves in his hands addresses for making communications abroad, viz. the papers, which I now produce. They have each upon them a cross, in the form I show you. The address of one is, "To Monsieur Dandibuscaille"—the outward cover to be thus addressed---"Messrs. Texier Angely et Massac, à Amsterdam" The other has a cross in the same form---the outward cover to be thus addressed---"To Mr. Chapeaurouge, merchant, Hambourg"---and at the bottom of each there is a direction to insert a recommendation to forward the inclosed---You will see that these were directions that were left in the hands of Mr. William Stone, to enable him to address letters abroad, and when you come to see the letters, which were forwarded from Ireland, and to see them unfolded, you will find that they were addressed by Mr. Jackson, in Ireland, precisely according to this paper found in the possession of Mr. Stone, in England; and in that correspondence between Enots and Popkins, which I have before referred to, Mr. Jackson, under the name of Popkins, writes to Mr. Stone, who answers his letter under the name of Enots, respecting these addresses, in the manner which I shall presently state to you. You will also observe that there are crosses upon the covers of the letters, that will be produced by the secretary of state, as received from abroad, which appear to have been sent from England.

Gentlemen, that Mr. Cokayne, whom I have before mentioned, and under cover to whom you will find Mr. William Stone addressing a letter, received by him from abroad, to Mr. Jackson, whilst Mr. Jackson was in Ireland—a letter received from that Nicholas Madget, who has been named; that Mr. Cokayne, to whom letters are thus addressed in the hand-writing of Mr. William Stone himself, accompanied Mr. Jackson to Ireland; and you will have an account from him of the transactions of Hamilton Rowan, and the transactions of Mr. Jackson, as far as they can be given in evidence, with respect to their communications relative to the state of Ireland; to which island Mr. Jackson went with the privity, as it appears, of Mr. William Stone, after Mr. William Stone had been cautioned upon the subject of his mission, in the manner in which you have already heard he had been cautioned respecting it. Mr. Hamilton Rowan, in fact, it will be proved, was committed, or about to be committed, for high treason, and he absconded. Mr. Jackson was tried for high treason, and was convicted: he was not executed, but he died: it is to no purpose, perhaps, to state by what means,* or how, but in fact he died before the time at which he would probably have been executed.

But, gentlemen of the jury, the most important papers are now to be stated to you; and, with reference to which, I can only say again, that I hope in God they will be accounted for. Mr. Jackson, having got to Ireland, he writes this letter, which I am now about to read to you, to Mr. William Stone, the prisoner, dated the 5th of April, 1794; and, if Mr. Jackson and Mr. Stone shall once be connected by the general tenor of the evidence, you must put it to your consciences, in making deliverance between the country and Mr. William Stone, whether it be possible, according to the nature of human things, that Mr. Jackson could write this letter to Mr. Stone without Mr. Stone's full knowledge of the purposes of Mr. Jackson's mission: it is signed Thomas Popkins: it is in the hand-writing of Mr. Jackson: there is no address upon it; the address happened not to be found.

"Dear Sir; Owing to a variety of incidents, which I will explain when I have the pleasure of seeing you, I have been prevented writing until the present moment. Some very excellent friends, to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service; and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions: accepting, as I do, the will for the act, they have a claim on my gratitude. I request, my dear sir, that you will dedicate an instant, on the return of the post, in acknowledging the receipt of this letter; and, if you have any letters from the family at Shields, which regard their affairs in this country,"—It will be for Mr. Stone to explain these letters, to represent what were the affairs which the family at Shields had in Ireland—the letters with respect to which Mr. Jackson had a hope were to be received, and to be transmitted——He proceeds thus: "you cannot too soon enclose them to me, as the assizes at Cork are about to commence."

* See p. 889 of this Volume.

You would suppose, from what I have read, that this was relative to some law-suit that some family at Shields had, which was to be tried at the assizes at Cork. This will also be to be explained to you by the prisoner. The letter then states—"In the course of a very few days I will give you some information respecting the bills which you commissioned me to present. I hope your lady enjoys better health; and, with very sincere wishes for her and your happiness, I request you to believe me your real friend, Thomas Popkins." Now how Mr. Jackson came to write about the family at Shields, and the affairs at the assizes at Cork, in the name of Thomas Popkins, to Mr. Stone in London, and yet that Mr. Stone should misunderstand his real intentions, I confess it is beyond any power of imagination that I have to suggest. He proceeds again thus: "I must request you"—Pray attend to this, gentlemen—"not to make use of any of the addresses I left you"—I have produced those addresses—"the price and nature of the articles being entirely changed." Now I say again it will be for Mr. Stone, and God grant he may be able to do so, to satisfy you why he was not to write according to those addresses, in consequence of the price and nature of any and what articles being entirely changed. With respect to Mr. Cokayne's part in the transaction, you will see how his account is confirmed by every paper that is produced. The letter contains this passage—"You will have the goodness to enclose your letter or letters to me under a cover, thus directed, John Cokayne, esq. Hyde's Coffee-house, Dame-street, Dublin."

Gentlemen of the jury, if Mr. William Stone's indiscretion had been such as never resided, considering its magnitude, in the breast of any indiscreet man before—if it was not checked by the advice given him, which I have stated to have been given to him in the beginning of this business, when that Mr. Jackson, with reference to whose proceedings in this country no information was given to government, had gone to Ireland, with the knowledge of Mr. William Stone, what, if he did not know Jackson's purposes, must have been his conduct? Could he have received a letter, thus enigmatical in the terms of it, thus incapable of explanation by any human being, who had not before known the circumstances, the knowledge of which would lead to the true explanation of it? What would he have done? Would he have answered such a letter as Mr. Jackson's, written in the name of Thomas Popkins? Mr. Stone, however, writes an answer in the name of William Enots, which you see is his own name backwards, directed under cover to Mr. Cokayne, to whom Mr. Thomas Popkins, being in fact Mr. Jackson, the clergyman, in Ireland, had so directed him to address himself. Does he complain in this letter that he does not understand this communication? Gentlemen, attend to his letter in answer: it is this:—"Dear sir, I yesterday received your's of the 5th instant; I am happy you find yourself so agreeably situated where you are. I have received no letter for you; but the day after you left me I received one to say your first letters were received." I call back your recollection, gentlemen, to one of those letters from John Hurford Stone, in which he acknowledges that this first letter had been received, and which had given great satisfaction, though not so much as they wished. He then says—"I have received another since, in which mine was acknowledged." Now, gentlemen, if Mr. William Stone, under the name of Enots, tells Thomas Popkins that he had received this letter, and that he had received it from France, what are we to say to this family affair at Shields being discussed at the assizes at Cork, when you see that the letter that he refers to in this of April the 11th, 1794, has a direct connexion with a letter sent from Hurford Stone previous to that letter of the 11th of April, 1794, the fact of receiving which he has here acknowledged in that letter of the 11th of April?—"I have received another since, in which mine was acknowledged. You recollect that I stated a letter which acknowledged his which I wrote the post after. Gillet was with us, but no mention was made of any other. I have not made use of what you left with me."—That is, the addresses.—"What a wonderful change there is in the family!" Is this the family at Shields? What family at Shields is it that has these affairs at the assizes at Cork? What family is it that there is a change in, which Mr. Stone could describe in such enigmatical terms, if Mr. Stone was acting with any such intention as my friends will, by-and-by, be to contend—I hope successfully, if the case will bear them out in it—that he was acting with throughout this business? He proceeds—"What a wonderful change there is in the family! will it tend to good? I confess I think better of it now than before. I want what you possess, a knowledge of the several branches of it, to form a proper judgment of their conduct in the last fracas." Now this is some family, with reference to which it is clear, from this letter written by William Enots, that he and Mr. Jackson must have had a great deal of conversation, and in consequence of that conversation he must have understood that Mr. Jackson knew the detail and particulars of their circumstances. Jackson must have satisfied Stone that he understood the detail and particulars of those circumstances, of which Stone states in this letter that Jackson knew so much more than he did. Nobody can doubt what this related to, who knows much of the history of France about that period. We recollect that change which took place in consequence of Danton and others being removed about this time from the government; and this is the change, I submit to you, that is here alluded to. The letter then proceeds—"Political affairs seem

taking a strange turn, if we take into our view the great whole. I cease to wonder at any thing; we seem, I think, to be the only party resolved to go on with vigour; the king of Prussia publicly avows his disinclination, and I think the French, as well as the emperor, show it by their inaction. But to what can the proscription now going forward in Paris tend?" Now, when Mr. Stone speaks about Paris and the proscription at the end of the letter, what does he mean by *family* in the beginning of it? Or why use the term family, as suggested in the letter by Mr. Jackson, and as connected with a family in Shields, unless he meant to disguise the subject he was writing about? He then says—"I really feel a kind of awe in thinking on those subjects, and see every day new matter to astonish me. We are all tolerably well. Your's, most truly, W. Enots.

"P. S. Since writing the above, I have received a letter, in which is—*I have received our friend's letters; and you must tell him that, having given them to the proper people, he must, in future, address his friend Nicholas, and not me.*"

Now, if this communication had only a connexion with the individual situation of Mr. John Hurford Stone in Paris, why were the addresses used for letters prior to this, which had been addressed to John Hurford Stone, and represented as relating only to the particular situation of Hurford Stone, why were the addresses of those letters to be changed in future? William Stone, under the name of Enots, adds—"I feel particularly happy that the several letters have been received; and, I trust, that, even in the peculiar circumstances of the family, they will produce proper effects."

Gentlemen, whilst Mr. Jackson was in Ireland, as you see that he had desired that Mr. William Stone should transmit to him any letters that came from abroad, so you will find, in point of fact, that the letter, which I am about to read, coming from abroad, he did transmit it to him, and he transmitted it to him again under the feigned name of Enots.

Gentlemen, this, like the others, is addressed by Mr. William Stone to John Cokayne, esq. Hyde's Coffee-house, Dame-street, Dublin. It is in an enclosure to this effect—"I received the enclosed to-day: I have not heard since I last wrote to you. I am your's, truly, W. Enots."——"To Mr. Thomas Popkins." The letter contained in it is a foreign letter, directed—"To Mr. Johnson, at Messrs. Laurence and Co. Rutland-place, Thames-street, London." You will find that this Mr. Jackson is sometimes called Mr. Johnson. This letter is signed N. M.: it is a letter that plainly comes from abroad, and was transmitted to Mr. Jackson; the contents of it are these:

"My dear friend—I have received your different letters, but could not answer them sooner for want of a proper opportunity: all your friends here are very glad to find you are safe arrived after your long and disagreeable jaunt through Wales." This is all full of enigma—"They also rejoice to hear that Mrs. Harris is likely to do well in her business; they are sensible that the funds she sets up with being but trifling, she can't expect to do great matters in the beginning, but they are so convinced of her industry and cleverness, that they are willing to assist her as far as they are able; they, therefore, will take the first opportunity that offers to send her such a sortment of millinery goods"—a very strange subject to write to a clergyman in Ireland upon—"as will enable her to set up a very handsome shop; in the mean time she must make friends, and secure as many good customers as she can; this was my advice to her when last I saw her, and her friends request that I should here repeat it. The two friends she mentions have not reached this place yet; when they do, you may depend upon my showing them all the civility in my power." You will see from the evidence that this means, clearly and distinctly, persons who were to go from Ireland, in consequence of this conspiracy, to communicate by word of mouth that which could not be so safely communicated by letter; namely, the particular circumstances which made it adviseable for the French to invade Ireland rather than England. The letter then proceeds—"I shall take care to introduce them to some very good company of this neighbourhood; as soon as Mrs. Harris has prepared every thing for her new establishment in London, I think she would do well to take a trip to Dublin, and strive to raise there the little money that is due to her. Not one of the letters mentioned by her as directed from London to Mr. Horn is come to hands, yet this mode of conveyance must not be neglected, but let her at the same time write to Mr. C——— or to me directly. Adieu, my dear friend, I wish you and that lady all possible happiness; yours most affectionately, N. M." "P. S. Should Mrs. Harris go to Dublin, I beg she'll prevail on my younger brother Robert to break off at length the foolish partnership he has formed with a fellow who is constantly imposing on him, and keeping all the profits to himself. Should my brother persist in his obstinacy, I shall have nothing to say to him, but leave him to smart for his folly; but if he follows my advice, I will become his partner, send him goods, and supply him with whatever credit he wants to carry on business on his own bottom."

Gentlemen, these letters having arrived in Ireland, Mr. Jackson, under the name of Popkins, addresses the following letter to Lawrence and Company, intended for Mr. William Stone; it did not come to his hands, because it will be proved to you to have been laid hold of in the post-office.

"Dublin, the 21st of April. Dear sir; Yes-

terday your letter was delivered to me. I am glad to find that the patterns I sent have reached the persons for whom they were intended, as from the silence of the parties, I concluded that the out-rider had neglected the delivery of them. I do not see any thing in the late change of fashions which alters my opinion of the stability of the new institution, particularly as the principal persons who superintend it I never have been able to detect in the slightest deviation from the line of consistency; the rest have all at times been suspected of sinister motives and tergiversation. The state of manufactures in England, which your friend drew out, and which you so obligingly gave me"—That, gentlemen, is the paper from which Mr. Jackson drew out his improved state, and which paper Mr. Jackson, writing to Mr. Stone, thus describes:—"The state of manufactures in England, which your friend drew out, and which you so obligingly gave me, is very just as far as it relates to England:" Now what the manufactures in England were, will remain to be explained by the prisoner; he proceeds thus:—"But the principles of the people with regard to trade, their opinions as to a change to be brought about by industry, and co-operating exertion, are so totally different, as to throw all comparison out of the question. I am promised by an eminent and very sensible manufacturer, a statement of the manufacturing branches here which will gratify you." Gentlemen, I shall lay before you presently the statement of the manufacturing branches which were to gratify him; the statement of these manufactures, furnished by that eminent person. Popkins then proceeds—"I shall obey the instructions"—Now I beg your attention to this—"I shall obey the instructions of your sister-in-law, by not writing to her"—Mr. Hurford Stone had said in a letter, that he desired not to be written to, but how Mr. Jackson comes to answer Mr. Stone thus, by saying in effect that, because Hurford Stone had expressed that desire, he would obey the instructions of the *sister-in-law*, by not writing to her, is incomprehensible, unless you infer that there must have been infinite communication between Mr. Jackson and Mr. Stone upon the subject upon which Mr. Jackson himself was engaged, and the manner in which they were to express themselves to each other. Popkins again proceeds thus:—"Which does not, however, preclude me from requesting that, when you write, you will remember me in the most affectionate manner to her and Mr. Nicholas. Let them know where I am, and that I am doing every thing in my power to serve Mr. Nicholas, and give him satisfaction in bringing his affairs to the issue he wishes." That Mr. Nicholas is the person who signs N.M.—at least it must be left to you to decide whether Mr. Nicholas is not that person. He then goes on to say, "His friends here have it in agitation to send a person, on whom his family and he can depend, to him with copies of such covenants and leases, as will show the readiness of his sister-in-law here to come immediately to terms with him, and I should advise a junction of interest, rather than a tedious chancery suit. I wish you would copy this part of my letter, and send to him. A few days will decide whether the person goes or not; if he should, he will go from me and the family here," (now here is a family in Ireland as well as a family in Shields;) "with full powers to treat with Mr. Nicholas, finally settle the terms, and thus put an end to enmity and litigation. I am sure the medium of a third person is all that is wanting to bring the parties perfectly to accord. The sister-in-law is admirably disposed to a reconciliation; I hope this will be effected, as one interview is better than a thousand letters. If the person should go, Mr. Nicholas must receive him as he deserves, and treat him as he will merit.

"I had written the above during the negotiation with a person to go to Mr. Nicholas; he has this morning, the 24th of April, decided that his private affairs will not permit him. I shall, therefore, send a statement of the family expectations and situation here, drawn up by as eminent a pleader as the gentleman who composed the paper in England. I shall set out for Cork in a day or two, from which place you shall hear from me, and should you receive any intelligence from or of our friends, I entreat you to communicate it to me under cover to John Cokayne, esq. to be left at the post office, Cork. I wish you would write the first post day to your sister-in-law, and desire her to inform Mr. Nicholas that to-morrow I send off two letters for him from his friends here, containing opinions thoroughly considered, and well digested by the first counsel here; as such he may show them, and the family may act accordingly, as my time has been wholly employed in collecting them, and as they come from the first and most enlightened sources, let your sister-in-law desire Mr. Nicholas to look out for them as matters of consequence; they contain the real state of the case. I sincerely wish your happiness, and that of your family, and am truly yours, Thomas Popkins." "Do not fail to communicate to Mr. Nicholas, by the means of your sister-in-law, what I have written."

Now, gentlemen, calling back your attention to the addresses which were left with Mr. Stone with those crosses (which are the addresses to Chapeaurouge and the other persons before named), you see the paper which I have read, mentions that by the next post the state of the case, drawn up by an eminent pleader and counsel, containing all these covenants, leases, &c. were to be sent, and in this letter Mr. Jackson desires Mr. Stone to inform his sister-in-law, as he appears in this letter, of that fact. These l written in consequence, as it will

you, of persons who had been consulted for the express purpose of going over from Ireland, feeling the danger of their situation too much to do so, and that induced the necessity of a written communication.

Gentlemen, I hold in my hand a letter containing the pleader's state of the case, and which was stopped in the post-office. It is a letter addressed according to one of the addresses left with William Stone, to Mr. Chapeaurouge, merchant, at Hamburgh. When you open it, you find the cross agreeably to those addresses which were left with Mr. Stone. When you open it again, you find in it words to this effect—"Remember me to Laignelot and our friends," with a cross again. The other letter is directed to M. Daudibuscaile; the outward cover is addressed to Messrs. Texier Angely et Massac, à Amsterdam; this contains the letter directed à Monsieur Daudibuscaille at Amsterdam, which you recollect is the other address left with Stone; and here is also the other cross, and it likewise contains, as well as the other (for there were duplicates of them), that state of the case by the eminent pleader, which has been alluded to.

I will now read to you this state of the case, calling back your attention only to these things—that Mr. John Hurford Stone, in his letter, converses with Mr. William Stone about the house concerns in the manner I have pointed out to you; that Popkins ventures to write to Mr. William Stone in the manner I have read to you relative to the manufactures, the prices changing, and the family at Shields, and other particulars I have remarked upon, and then that describing this paper which I am about to read, he represents it to be a statement of the manufacturing branches in Ireland, drawn up by an eminent manufacturer and an eminent pleader, upon which the *family* are to act. The paper is as follows—"The situation of England and Ireland is fundamentally different in this—the government of England is national, that of Ireland provincial; the interest of the first is the same with that of the people, of the last directly opposite. The people of Ireland are divided into three sects—the Established Church, the Dissenters, and the Catholics. The first, infinitely the smallest portion, have engrossed besides the whole church patronage, all the honours and profits of the country exclusively, and a very great share of the landed property. They are of course Aristocrats, adverse to any change, and decided enemies of the French Revolution. The Dissenters, who are much more numerous, are the most enlightened body of the nation; they are steady Republicans, devoted to liberty, and through all the stages of the French Revolution, have been enthusiastically attached to it. The Catholics, the great body of the people, are in the lowest degree of ignorance and want, ready for any change, because no change can *make them* worse. The whole peasantry of Ireland, the most oppressed and wretched in Europe, may be said to be Catholic. They have, within these two years, received a great degree of information, and manifested a proportionate degree of discontent by various insurrections, &c. they are a bold, hardy race, and make excellent soldiers. There is no where a higher spirit of aristocracy, than in all the privileged orders, the clergy and the gentry of Ireland, down to to the very lowest; to countervail which there appears now a spirit rising among the people which never existed before, but which is spreading most rapidly, as appears by the defenders as they are called, and other insurgents. If the people of Ireland be 4,500,000, as it seems probable they are, the Established Church may be reckoned at 450,000; the Dissenters at 900,000; the Catholics at 3,150,000. The prejudices of the English nation are adverse to the French, under whatever form of government. It seems idle to suppose the present rancour against the French is owing merely to their being republicans; it has been cherished by the manners of four centuries, and aggravated by continual wars. It is morally certain that any invasion of England would unite all ranks, in opposition to the invaders: in Ireland, a conquered, oppressed and insulted country, the name of England, and her power, is universally odious, save with those who have an interest in maintaining it; a body, however, formidable only from situation and property; but which the first convulsion would level in the dust; on the contrary, the great bulk of the people would be ready to throw off the yoke in this country, if they saw any force sufficiently strong to resort to for defence, until arrangements could be made. The dissenters are enemies to the English power, from reason and reflection. The Catholics from a hatred to the English name. In a word, the prejudices of one country are directly adverse of the other, directly favourable to invasion. The government of Ireland is only to be looked upon as a government of force. The moment a superior force appears, it would tumble at once, as being neither founded in the interests, nor in the affections of the people. It may be said the people of Ireland show no political exertions. In the first place public spirit is completely depressed by the recent prosecutions of several, the Convention act—Gunpowder bill, &c. &c. Declarations, therefore, of government, of grand juries, or parliamentary unanimity, all proceeding from aristocrats, whose interest is adverse to that of the people, and who think such conduct necessary for their own security, are no obstacles—the weight of such men falls in the general welfare, and their own tenantry and dependants would desert and turn against them, The people have no ways of expressing their discontents *civiliter*, which is at the same time greatly aggravated by those measures, and they are, on the other hand, in

that semi-barbarous situation, which is of all others the best adapted for making war. The spirit of Ireland cannot therefore be calculated from newspaper publications, county meetings, &c. &c. at which the gentry only meet, and speak for themselves; they are so situated that they have but one way left to make their sentiments known, that is, by war. The church establishment and tithes are very severe grievances, and have been the cause of numberless local insurrections; in a word, from reason, reflexion, interest, prejudice, the spirit of change, the misery of the great bulk of the nation, and above all, the hatred of the English name, resulting from the tyranny of near seven centuries, there seems little doubt but an invasion would be supported by the people; the militia, the bulk of whom are catholics, would, to a moral certainty, refuse to act, if they saw such a force, as they could look to for support."

This is a statement of the law suits, and the manufactories, which Mr. Jackson describes in a letter that he had ventured to address to Mr. Stone, to that Mr. Stone who had written to that Mr. Jackson by the name of Popkins, and who had written to that Mr. Jackson by the name of Popkins after he had received from him a letter relative to family concerns at Shields, and the affairs of the family of Shields in that country, in which Mr. Jackson then was, I mean Ireland; it is for you, not for me, to draw the inferences from these facts, pregnant as they appear to me with important inferences.

Gentlemen, you may recollect that I have stated to you, that a letter was written by Mr. John Hurford Stone, in the name of Benjamin Beresford, the contents of which I stated. You will now find another letter in the name of Popkins, for this Mr. Jackson writes in the name of Popkins, to Switzerland, as well as to England, to the following effect; and when you come to hear this letter read, and to compare it with the letter of the 11th of June, signed Benjamin Beresford, you will see plainly that it is an answer to that letter of the 11th of June, which was unquestionably communicated to Jackson through Mr. William Stone.

"Dublin, 24th April. Sir, you are requested to see Mr. Madgett directly, and inform him, that this evening two papers, containing the opinion of the first counsel in this kingdom."—You observe that this communication is made both directly to Switzerland, and likewise to William Stone here in England—" relative to his family law-suit, are sent off to him by the post. Mrs. Madgett's friend has been wholly occupied since his arrival here in obtaining those opinions, attending different consultations, and collecting what is now sent, as a real case in point. Your brother-in-law, with whom the friend of Madgett has had frequent conferences, approves the opinions sent, as containing the opinions of all good and honest lawyers on the subject. Madgett may therefore proceed for the recovery of his family fortune."—Now you will perceive the way of proceeding for the recovery of the family fortune!—" by hostile or pacific means, as he and his friends think proper.—I am, sir, your humble servant, Thomas Popkins.—N. B. Your brother-in-law has written to your wife, in order to find out the sex of your child—I am told that it is a very fine boy."—Gentlemen of the jury, you will likewise find that the letter is addressed by Thomas Popkins to Mr. Beresford, and addressed according to the direction contained in the letter of John Hurford Stone, to which I before alluded; namely, that the American friend's letters, and William Stone's letters, were to be addressed to Beresford, to the care of Louis Bourcard and Co. at Basle, in Switzerland; and it is clearly and obviously an answer to that letter of Mr. John Hurford Stone himself, of the 11th of June, which is subscribed in the name of Benjamin Beresford.

Gentlemen of the jury, having read to you these several papers, for the purpose of endeavouring to enable you to comprehend this case, as it is laid before you; I have now little more to say to you upon the subject with respect to the papers, except to state this, that it may possibly be said that Mr. William Stone might (I think, after the papers have been read to you, you probably may think it impossible) but it may be said that, independent of these papers, Mr. William Stone might possibly conceive that his brother, John Hurford Stone, was really attached to the interests of England; that, being really attached to the interests of England, he had engaged his brother William Stone to aid and assist in the purposes of Mr. Jackson, whose purposes are as clear as day light; but that William Stone had some project in common with his brother, not hostile to the real interests of England.—Gentlemen, I do not know how such a proposition as that is to be shaped in the defence—because I state it, with great deference to those who are to advise you and direct you in point of law by-and-by, that if this evidence shall satisfy you, that Mr. William Stone knew that Mr. Jackson was here for the purpose of communicating intelligence respecting the state of this country, to the enemies of it; or respecting the state of Ireland, to its enemies, for the purpose of informing the enemies of this country, and that country, from what attacks they might abstain, and what enterprizes they might undertake, and communicating therefore for their aid; I am not aware how any proposition can be stated, that, under the circumstances you have heard, can liberate Mr. Stone from the consequences, that attach upon the guilt charged in this record.

But, gentlemen, it appears to me (God grant I may turn out finally to be mistaken in this), that, if the proposition could be stated that he meant a benefit to this country utterly and absolutely impossible the

be established in point of fact. When Mr. William Stone received Mr. Jackson, he knew from his brother, actually living in France, whatever his dispositions might be either towards France, or towards England, that a person was coming over to this country for the purpose of making inquiries with respect to the state of this country, and with respect to the state of Ireland, to be communicated to the French government. If his brother's situation was such, as to induce him from any circumstances that had relation to that situation, to feel an inclination to prevent an invasion of this country, he had a short mode of acting; but it was not by consulting persons for the purpose of handing over to Mr. Jackson, represented as an American merchant, the situation of this country to be communicated to France—it was not by carrying on a correspondence in the name of Enots, with Mr. Jackson, in the name of Popkins; or denying the fact of having had that correspondence; nor was it by receiving such communications from him, as he did receive from Ireland, or actually promoting with reference both to England and Ireland, the views of Mr. Jackson. If Mr. Jackson was to communicate for the benefit of France, Mr. Stone has violated the allegiance, which he owes to this country, in assisting Mr. Jackson in making the communications. If it was possible to say that Mr. Stone verily believed that a communication could be made for the interest of England, in this sense for the interest of England that it would prevent the French from making the invasion with that temerity with which they meditated an invasion, is it possible to contend that he meant no more? What are we to say for Mr. Stone, when he continues (under all the cautions he received) his assistance to Mr. Jackson after he went to Ireland? How is this, by possibility, to be accounted for, consistently with an innocent intention?

But, gentlemen, the case in my opinion is put beyond all doubt in another respect; for there will be laid before you letters much earlier than that of the 22nd of November, 1793—letters, which I told you I should in some measure state towards the close of what I had to address to you, in which it will appear that, to the knowledge of Mr. William Stone, Mr. John Hurford Stone was, as I before stated it, throughout a Frenchman—throughout wedded to the interest of France; writing of the interests of England as the interests of the enemy, and writing of the forces of England as the forces of the enemy of his country. You will find this in several letters pointedly and distinctly put by John Hurford Stone to William Stone: you will find that in letters he states what may be for the benefit of France, and what may not be: you will find that he states how *we*, as he expresses it, mean to treat Holland, in order to avoid giving offence to *you*: you will find that he states how *we are to attack the enemy* in the north, and the armies of the enemy in the north, consisting, among other troops, of the troops of England: in a word, without going through this part of the case particularly, by reading all the letters, I shall put it to you as a circumstance of fact, bearing strongly upon the conclusion which you are to draw from the other circumstances, which I have stated, that it is clear from the papers to be produced to you, that William Stone could not doubt that John Hurford Stone was engaged in promoting the essential interests of France.

Gentlemen of the jury, I told you there was no communication with government after the 22d of November, 1793, the date of the first letter, which speaks distinctly of those things which I have mentioned, and speaks of the French as meditating an invasion into this country. You will find among the papers that were seized (and I do not mean at present to produce any other than those which are put into my hands in consequence of that proceeding), a letter from Mr. Pitt. That letter, you will see, refers to a letter, and to some extracts of letters, which had been communicated in April, 1793, or thereabouts, by Mr. William Stone to Mr. Pitt. The extracts are found upon the seizure in the possession of Mr. Stone. I shall produce those extracts; it will be for you, gentlemen, to compare those extracts with the general contents of the letters, from which they are extracts; and it will be for you to determine whether in April, 1793, Mr. William Stone meant to give *bonâ fide* information to those, who, at least in this respect may be fairly stated as the persons who ought to be considered as at the head of affairs in the country, and who are bound by the most solemn obligations to protect the liberties, constitution and property of Englishmen, against meditated invasions. That letter which is alluded to in this letter of Mr. Pitt, which is put into my hands by the effect of the warrant to seize papers, I have not to produce; and it will occur to you, and to all who hear me, that a communication may be made under circumstances in which it is fitter that the letter should be called out of the hands of the person, who has it by process directed to him from those who addressed the letter to him; than by process directed to him on the part of those who conduct this prosecution. That letter may be called for, and, if it is, there is no objection to the production of it. Having stated myself thus with respect to that letter, I do not think myself at liberty, for the very reason which I have been intimating, to say one word, at present, upon the contents of that letter.

Gentlemen of the jury, I have thus opened to you, with a good deal of detail (I hope not with more than will be necessary for your understanding this important case), such circumstances as may lead the court and the jury to a true understanding of it. I speak to you under an impression, which, as a

prosecutor, possibly I may be too ready to conceive. It is the great blessing of Englishmen that they have a tribunal to resort to, which can protect them against the impressions which those who prosecute receive from their view of the case. It is the great blessing of the country that it can also refer to a tribunal, which is fully able to examine the grounds of that reasoning which the prisoner's counsel may, on the other hand, attempt to offer on his behalf.

Gentlemen, you owe, upon this occasion, a great and important duty to the gentleman at the bar; you owe to yourselves, to your posterity, to your country, and to him, a verdict of acquittal, unless you are satisfied that he has violated the statute of the twenty-fifth of Edward 3rd, and satisfied by such evidence as the law of England requires to be applied to a charge founded upon that statute.

But, on the other hand, gentlemen, you must allow me to say that, dear as all the interests of Mr. Stone are to him, there is, in this sort of case, without all doubt, an interest most obvious, an interest most valuable to your country committed to you. If by such evidence, you should be satisfied of the truth of the charge, it will be equally your duty to yourselves, to your posterity, to God, and your consciences, to give that verdict which the law, in that case, requires from you. I cannot retire from this part of my duty without saying that I hope, because a prosecutor ought to hope, as the law of his country hopes, that a satisfactory account of this business may be given by Mr. Stone, and that, such satisfactory account having been given, he may have a good deliverance. On the contrary, gentlemen, I am bound, and (painful as it is to me to feel the obligation, and to act upon it), I say I am bound, if justice between the country and the prisoner will not permit a verdict of acquittal to be given, according to my duty, to ask, at your hands, on behalf of the country, a verdict of guilty.

EVIDENCE FOR THE CROWN.

Mr. *Thomas Maclean* sworn.—Examined by Mr. *Law*.

You are one of his majesty's messengers, I believe?—Yes.

Did you at any time make a seizure of any papers at Mr. William Stone's?—Yes, on the 3rd of May, in the year 1794, in the evening, I went, together with Mr. Lauzun, to the house of Mr. William Stone at Old Ford, and took him into custody.

Lord *Kenyon*.—Where is Old Ford?—Near Newington.

Where did you find these papers [showing the witness the following papers: No. 1, A; No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No No. 8, No. 9. No. 10.]?—In the house of Mr. William Stone, at Old Ford.

Mr. Law.—Most of these letters are addressed to Lawrence and Company? We will now call Mr. Lawrence to prove that such letters were delivered unopened to Mr. Stone.

Mr. *Thomas Lawrence*, sworn.—Examined by Mr. *Garrow*.

Were you at any time engaged in trade as a partner with Mr. William Stone?—Yes.

Where was your house of business?—In Rutland-place, Upper Thames-street.

In the course of your business did you receive certain letters, by the foreign mails, addressed to the house by the firm of Lawrence and Company?—Yes.

By the course of the house to whom were letters so addressed delivered?—They were left for Mr. William Stone.

When you say left, do you mean left unopened by the other partners in the house?—Left unopened by any body else, for Mr. William Stone.

As far as you knew was that the universal course, or did it ever happen that any of these letters were opened by any other persons?—I never knew an instance of their being opened by any body but him.

Are you acquainted with the hand-writing of Mr. John Hurford Stone?—I have seen his hand-writing, but am not sufficiently acquainted with it.

Did you ever see him write?—I have.

Did you correspond with him?—I did not.

Mr. *John Holmes* sworn.—Examined by Mr. *Wood*.

Are you acquainted with the hand-writing of John Hurford Stone?—I have seen him write.

Be so good as look at these letters—Do you believe them to be John Hurford Stone's hand-writing?

[The witness inspected the letters identified by Mr. Maclean, and said he believed them to be the hand-writing of John Hurford Stone.]

Mr. *Erskine*.—How long is it since you saw this gentleman write?—It is twelve or thirteen years.

[No. 1, A, read.]

Paris, 2nd Feb., 1793.

"Dear Brother;—I have only 3 minutes to write, by a gentleman who is departing for England. *Yesterday we declared war against you in due form, with the general approbation and general regret: this was more than you expected, but the patience of the French was exhausted: and now the event is committed to the last resource—arms. Holland it is expected will be in our power in a very short time; and this will likely bring it with England to a short conclusion.*"*

* The reader will observe, that where the papers read are printed part in Italic and part in Roman letters, the parts in Italic were read at the instance of the Attorney

Mr. *Law*.---We do not want any more of it read.

Mr. Serjeant *Adair*.—We must have the whole of the letters read; we have not seen them.

Lord *Kenyon*.—The whole must be read.

[The rest of the letter read.]

"The manuf. will be ours as soon as a little arrangemt. is settled with respect to some little neck of land. I have drawn at two months for 521*l*., which must be deposited when the offer is made; what more will be necessary I cannot now say; but if the change shall fall much lower, which I do not believe, as it is now 100 per ct. profit, I will draw for 2 or 300 more; it is likely that correspondence will be much impeded, if not stopped: you may write, however, as I shall: there is a certainty. Adieu.

Yours, &c. I. H. S.

"At this moment they are passing decrees for the protection of English merchants and their property; as also whether the minister of war shall be dismissed. We continue, both town and country, in the state of the greatest tranquillity. This war and the king's death unites all parties.

"Mr. Wm. Stone, Rutland Place,
Thames Street, London."

[No. 1, read.]

"Dear Sir; Your letter of the 12th, which arrived yesterday, was a great relief to me, as you may judge, from my not having received any answers down to the 24th October, which you acknowledge; since then you will have received others; and the last containing bills drawn by Beresford on yourself to the amount of 300*l*.; and one by C. Williams on Cotter, of 50*l*., I recommend to your particular attention, as the motives by which I then urged the negociation and the purchase of French bills are very much increased. The drawer's name may, in the present case, stand for my own; and what you receive on his account you may purchase there, as it is difficult to do any business here of that kind without immense loss. I have already mentioned to you some of the causes of the delay of the consignment for the 300*l*.; and you will by this time be perfectly apprized, it is certainly a great misfortune, but very remediable, and I believe will not prevent the progress of the trade. I mentioned to you also that you would hear the full particulars from Hamburgh, which will be the case, as that is the only channel; some part is arrived there, and the rest will follow; in course my advantages on it continue the same.

"I am sorry to hear you have been so much indisposed at home, and hope that your next letters will bring me the pleasing intelligence that every one * is got established. I have had a little touch of the gout, which has only confined me a little at home, but have now got well rid of it. I am also sorry for those abominable advances, of which you speak, to Braidwood and Crawford, for I was in hopes that what spare cash you might have you would have been able to send here, at about ten times the advantage it can be employed there; on this head you will observe that I have been very modest, since, I believe, that except the 300*l*., which ought not to be reckoned, since I have not touched a shilling, and of which I had not the slightest doubt but you would receive the full indemnification long before the payment, you will not have paid for me in the course of the year more than fifty pounds; and this whilst I have had two establishments to form and support, of no small weight and future importance: I do not reckon indeed what you have advanced for me at the manufactory, of which I would cede to you a much larger share, and which, though under a cloud at present, will by-and-by become of great utility.—The salt am. sells here at present at 7*s*. 6*d*. per pound, and I am yet not convinced that the original plan ought to be laid aside.

"That you would, amidst the general distress, have many difficulties to struggle with, has led me not to ask you to make any extraordinary advances, though mine have been more than yours; and at present, from the situation of many of our friends here, are become more pressing than ever. To be where * and what I am, has required more prudence on my part than you suspected me in possession of. It depends in some measure on you, whether what I have begun shall fall or be the first establishment of the sort in Europe; you might readily conceive what avenues there are to success, when the state of society has undergone so thorough a regeneration, and what sure channels are open to industry and circumspection; I think it my good fortune to be as much in the way as any individual. I am glad that Gillet accepts the commission; and, supposing that the result of your next conversation will be some adjustment, we are preparing to send a sample to Hamburgh. Since I wrote to you on that subject we have engaged an agent for Germany, Switzerland, and Italy, and I have no doubt but the trade of those places will fall into our hands. This agent, who lives here, insures all the debts, for which he receives a proportionable commission. I know that bound books pay a double duty, but nothing equal to the value. I wish you to make me more sure whether English printed books, not copy-right, find an uninterrupted entrance.

"From Christy I have received a sneaking letter, alleging reasons why they did not accept

in support of the prosecution, the remainder at the desire of the prisoner's counsel; but when the whole letters are printed in Roman, the whole were read at the request of the *Attorney General*.

* Illegible in the original.
* Illegible in the original.

my bill of 275*l.*, which he promised me when here. The man's misfortunes disarm me, or I still feel resentment enough to speak of him as he deserves; I shall write to his house in a more peremptory tone on the subject, for we cannot understand that a deposit of 100*l.* only should entitle them to all the advantages of their shares, whilst we have all the labour. I enclose a bill, which you'll immediately negociate, value 25*l.*, at 10 days sight, on Gillet * Portland Road *
of Cary's concern I can say nothing; it is all under the gripe of the * I hope, however, to render a good account of it some how or other; he ought to be satisfied with my letter; you are perfectly clear, I trust on the occasion. I shall not trust Oliver (for Hamilton writes me that it is his concern alone) for more than 150*l.* loss; that is half, and it may not turn out to be a misfortune. Recommending me to your care and diligence in what I last wrote to you, and also your attention to Beresf. concerns, I remain, faithfully yours,

"22d Nov. 1793. "I. Hunford.

"I would wish you to sell immediately all my plate, and send me a French bill for it, as paper and money here are of equal value; this is the only moment [Short-hand characters.]

"Our American brethren desire their remembrances. I have heard nothing from Philadelphia since my last, but have sent a cargo thither lately.—Have you any news from New York?

"*I refer you to a note written to Dr. P.—— for what I have now scratched through. I have reasons at this distance for wishing the house at Old Ford diposed of; if not by May it will be taken.*"

"Messrs. Lawrence and Co.
Rutland Place, Thames Street, London."

[No. 2, read.]

"*Paris, 9th Dec.* 1793.

"Dear Brother;—I have received your letters inclosing the power of attorney, which I return you, signed and witnessed by names whose signatures can be readily recognized in London. I perceive from the information I have caught at, that Dr. H. is for all or nothing; and I suppose that the manufactory now is likely to return into its old channel. You are at full liberty to do with my share what you think proper. I have still the same opinion respecting the practicability and profit of establishing by-and-by such a one here; but as it is likely the whole face of things will be changed, both with you and us, there is no safety in speculation at present. I have made no ansr. to any letter that I have reced. from Dr. H. nor shall I at present, till I hear further from you. I have written to Dr. Crauford; but nothing precise on the subject I hope you have received my notes safe; and if you have done what I requested, it will be again of near forty per cent or more, [short-hand characters] there is some difficulty, I apprehend, to procure bills for this place, but it is not impossible. Pray ask Cary if ever the money was procured for my wager of last summer; I had information that I ought to receive more than the 150, and therefore I begged you not to apply; but I find myself mistaken. I gave Cary a draft for that sum, but I fancy it never has been received as yet by any one. If, therefore, you will call on the colonel from me, he will no doubt pay you, if it has not been already received; and I would thank you to settle the business soon:—if a form is necessary, I write one, as under, which you can cut off;

"Dear Sir;—Pay Mr. William Stone, or bearer, one hundred and fifty guineas.

"To Colonel Tarleton, "I. H. Stone.
London. "*Paris, 7th Dec.* 1793."

"I should suppose, from the contents of your letter, that Oliver, instead of dying, is getting better; if, therefore, the manuf. should go on, and be much for your advantage, I would drop the thoughts of settling another here, as I have other concerns of more importance. *I mentioned to you about Old Ford-house, were it mine, and you know what I do; I should dispose of it at the last possible loss, and that instantly.* If a separation of partnership takes place, how is the business to be arranged, would Oliver third it? On the other subjects of your letter, I will write you in a post or two. I notice what you say about Beresf. and am quite at home in the business. I trust him just as much as necessary; but he is honest, intelligent, and understands all that is necessary for the manufactory; if you receive any song for him, so much the better; but I am not very much interested at present that you should, for I do not want *his*. I shall write to Mr. Gill. on the other subject, and can speak with some confidence of our success in this literary undertaking. I wish you could get Christy's house to dispose of their share; if not we must use some method to oblige them. —I remain affectionately yours,

"I. H. Stone.

"The signatures can be recognized at Johnson's, in St. Paul's Ch. Adlard and his son are our foremen; inquire of Johnson about them. Adlard tells me that Dr. P. knows him; mention Adlard's name to Gillet. I see your newsp. down to the 23rd. I wish to hear nothing more of Simon's business. I should, have been very happy to have made one at your wedding-day anniversary, but I am laid up at present by the gout, of which I have had a few touches lately."

[No. 3, read.]

"*Paris, 16th Dec.* 1793.
"*25 Frimaire, 2nd year of the Rep.*
"Dear Sir;—This serves to inform you,

* Illegible in the original.

that I have drawn on you for 20*l.* 12*s.* 6*d.* at ten days sight, to the order of sir Robert Barclay, in order to supply the deficiency of a bill for 20*l.* returned protested from London.

" I complained to you in my last, of the numerous duplicates I recd. of your letters. There are two modes by which you may send them: the first is, as I have observed to you, and now mention it definitively, Madame Henvenne, rue Ferrenestriere Liege. This may generally be done; and when your letters contain any thing which you would wish me to know soon, if they contain bills, it would be safer to direct them to sir Robert Barclay, bart. Aix-la-Chapelle. It is not improbable but that most of the bankers business, truly legal and commercial, which has passed between the two countries, may now fall into our hands. In this case, whatever bills we receive on London we shall send to you, and draw on you through Barclay at longer dates. You will charge your commission on it, and give us regular information. You may be certain that we shall undertake no part of the business but what is perfectly secure; and therefore pay no bills till we know they are accepted, of which the information will depend on you.

" Since my last, I have received a letter from Dr. Crauford, dated 29th November; in which he tells me, in the gravest manner possible, that he intends to quit, as well as Dr. Hamilton, their respective shares in the manufactory, alleging for a reason the multiplicity of his other concerns, &c. &c. He tells me also, that you and I are to take the whole concern on our hands, with proper assistants; and that he will give any attention that can contribute to its success. He says that it may be made a very profitable business, and that the knowledge which he has, convinces him of this. There is something which I do not perfectly comprehend; but I trust you have taken care that the other does not play tricks with us, and establish one elsewhere. The doctor does not mean that you would take the management on yourself alone; for I should judge it impossible, with your multiplicity of business, to give it the necessary attention. Has Oliver totally abandoned it? If peace should take place, I could command here the whole market, for none is yet made; and if that succeeded with you, I should drop the thoughts of establishing it here.

" Tell the doctor that I have received his letter, which requires no particular answer; but that I rejoice to hear of his welfare, of which I would have thanked him for a greater detail, as it would have given me pleasure. *I shall take an opportunity shortly to explain to you what I meant by the house at Old F. We are all tolerably well and prosperous,* and join in love to all friends, with

" Yours faithfully, I. Hurford.

" Messrs. Lawrence and Co. merchants, *Rutland-place, Thames-street, London.*"

" You must properly direct and arrange the inclosed."

[No. 4, read.]

" *Paris, 26th December,* 1793. 6 *Nivose.*

" My dear Sir; I wrote to you yesterday through Aix, inclosing a bill of 25*l.* on Hammersly. This serves to inform you, that I have drawn on you for 100*l.* at 60 days sight, to the order of sir Robert Barclay, and shall send forwards other bills immediately I have made out my account of drawings since the beginning of the year, and will send it you, including the 300*l.* and 100*l.* of sat. which you will place also to my account, as you have not yet received the package, nor will for a little time, though I was confidently assured by my merchant that it was long since in his correspondent's house at Hamburgh. However the circumstances were unfortunate in the great, the detail leaves me about 8 or 900 in pocket; but I have not yet received it. I have requested Barclay, who has appointed us his bankers here, to write to his various friends, whose correspondences are stopped, to tell them that we undertake every legal business of this sort; and I have informed him, that you are mine in London. Under the present circumstances, there is a fair opening for every legal commerce; and as we stand well on every ground, our success attends on our good conduct. You know that every sort of English merchandize is prohibited, and that none is even sold. Cecy. Williams is about to be married to a young citizen of Normandy, the nephew of the nobleman whose history her sister writes in the first volume; and as he is acquainted with the cotton manuf. and we have here English workmen, who are otherwise starving, we have engaged in a manufactory of English fashion cotton hose, of which he has the superintendance. We begin but gently at first; for we have to instruct; but we have no doubt that it will become of some importance, as English fashion goods of this sort sell at a high price.

" But another point that may make some alteration in our projects one way or the other are, the events that are taking place. *What can you say to the continuance of the war, when you see the fate that attends you. You see that we are every way invincible; and of this the taking of Toulon will serve you as an evidence, for thousands of our countrymen perished there; but this is not a hundredth part of the evil that awaits you; the Vendee is crush'd entirely by this time, and troops are gathering on the coasts. I wished you to dispose of your house. You now fully understand me* (short-hand characters) *must take place. I know it; for I am* (short-hand characters) *Yesterday was our Christmas-day also. Having the gout, I could not go out to partake of a dinner given by our countrymen* the Williams's; *but I had a few countrymen around me at home, where we drank all your healths, and success to the cause*

of liberty. To make a pleasant and agreeable society at times, we have the Barlows, Payne, Williams, Wolstencroft, and some others you do not know; and nothing amuses us more than reading your news-papers, descriptive of the horrors of Paris.

" We have found some little obstacles to our sending the books; but we have now settled it on a surer basis. We are exceedingly busy at this moment. (Short-hand characters.) We wait your report on what I wrote to you, to enquire of Robinson. Pray enquire also, and give me speedy information whether news-papers sent us, Gillet knows of such as were fabricated by Taylor and Co. can be sent into the country without being subject to the stamp, if there are no advertisements. This is a point we want hastily resolved.

" If you have done nothing with those bills sent you, it is useless now. The present events are a further evidence of what I wrote to you, and about 200 per cent. might have been cleared. I hope, however, you may have done something; if so, I will make you instant returns. I wait with impatience your promised letter; and, after begging you to give my respects to all friends, &c.

"Yours faithfully, I. Hurford."

" Messrs. Lawrence and Co. Rutland-place, Thames-street, London."

[No. 5, read.]

" I have received your letter, which gives me accurate information respecting my literary enquiries, and I am obliged to Mr. Gillet for the trouble he has taken. He has answered my queries as I imagined he would, since I could not furnish him then with more satisfactory data.—The sale of this work, however, will depend very little on the booksellers. The reasons for which it is undertaken, are very far above the little calculations of these gentlemen. Four thousand copies are already bespoken here, which says nothing indeed for the goodness of the thing.—This will be explained to you in a day or two more fully by other means.—The accuracy of delivery is too important a thing to be overlooked; and, you may imagine, on what events this will depend.

" As this place will be the emporium of literature, as well as of every thing else, it is impossible to say what may not be done, especially with the assistance of men, as well instructed as Mr. Gillet appears to me to be, to help forward the machinery of it. With you the mag— will be a national work; and you may judge from whence the above mentioned support will be derived, (Short-hand characters) will explain all this more fully to you. That you have heard nothing of the books, or the other consig: was very surprising to me till a few days since; they are very safely lodged here. So many tricks had been played under false pretences, that it was thought fit to lay a general embargo on every thing. I was told that that of 23 pl. had long been dispatched, but they deceived me; I am however now sure that it will soon be dispatched, and that you will hear a good account of it, the delay will not have been against it. I note what you say about Ash's and shall prepare a large quantity, but I shall wait the event of the next week, with you, the 21st, before I send them.

" Your account of the bills is much as I expected, except that of Losack. I believe him to be a scoundrel, from all the information I can receive. He has taken in several here. The bill I sent you on him, is for a very kind friend of mine, and if any research could be made, I would be obliged to you. I could advertise the fellow: I see Christy is gone into some other employ; he owes Mrs. S. 400*l.*, for which she shall send you an order. I have drawn not on you, but on Dr. C. for 50*l.* the months of November and December, for her; but that of 8*l.* 6*s.* 8*d.* mentioned, I have not sent. I observe what you say in your former letter respecting the other bills, and can only say that it is unfortunate. The gains would have been about 150 per cent at this time; and you would have been in cash also. I have written to sir Robert Barclay about printing bills, but you do not tell me in your last, whether you have sent them; my account with him is under the firm of my name, and that of Beresford. We hope to have pretty considerable dealings with him in our way of trade, both for cotton goods and books, as well as other merchandize; but the circumstances of the countries at present, prevent any sort of speculation. I speak to you hesitatingly about every thing, nor can I speak with more assurance till I see the event of 21st inst.

" I cannot convey you our anxiety, nor our resolve. The events of the last month, will have given totally a new turn, and it presents to my mind the most pleasing prospects, not only for my own interest, but for that of mankind. The events of the succeeding month will be more astonishing to you, and in the same way than the last. You may tell Mr. Gillet that the history he alludes to, will probably make part of our undertaking. Right of Women is writing, a huge work; but it will be as dull as Dr. Moore's Chronicle, and probably as inaccurate. I have seen this stupid performance of Moore's, and the others also. (short-hand characters), of which you will say nothing. (Short-hand characters.)

" I thank you for the expedition with which you answer my demands. I must again lay claim to your attention for a thing of no small importance to the individual; it is to procure a certificate for Sabo, signed by Dr. P. Bilsham Aikin, H. Tooke, if possible, and others declaratory of his attachment, to the principles of liberty; the character which he h[illegible] place he occupied, and the estimation

he was held amongst you. On the early reception of this, depends his liberty, perhaps his life.—You shall know more of this soon; I must not now enter into the detail.

"I have seen your papers to the 31st Dec. I receive them pretty constantly (short-hand characters); am much amazed at your accounts of French politics. Heavens that you were wise and informed. How is it that Dr. P. has received no letter from me, it would have opened his mind, which the detail I fear of the last six months has too much closed; tell him that I have all his fears and feelings, and yet I am more than satisfied, and in me it is a thousand times more meritorious. *I note what you say about the manufactory, and Old F. House; the person alluded to will explain all the mystery. You will treat him with hospitality, for he is very much my friend.*

"Your's, &c. I. HURFORD."

"I shall send you again in two or three days. Remember Lib."

"Messieurs Lawrence, and Co.
Merchants, Rutland-place,
Thames-street, London."

[No. 6, read.]

"I wrote to you yesterday, chiefly to beg you to procure a paper, signed and sent hither with all possible expedition, which may be done in a letter to me, by Dr. P.—Sabo's friends need not be alarmed, since it wears now a very favourable aspect; but still the paper I request is necessary. In reverting to the last but one of your letters, you say there, in applying to the brokers, their answer is that as the Convention has forbidden bills drawn from this country being paid, there are no merchants who will draw, although there are many who would be very glad to do it, &c. Now if the latter part of this information be true, 'that they would be glad, &c.' you may be assured that the former is false; and that no bills are hindered from coming in to the Republic, nor being paid, provided the parties are not under the hands of the nation. I receive bills continually from Aix La Ch: the only difficulty is to get them paid, for it is a verity that most of the great bankers are in custody, or the seals put on their effects.—If therefore you find any one that will intrust you with bills to send over, I will send them back the proper returns immediately. I do not much care respecting the revw. I have seen the 1 vol. here, find some mistakes—but the tendency is right, and you see that I have not been altogether a false prophet.

I hope you will meet with no serious inconveniences, from what you tell me of Langston's message.—I have long supposed it might be so, and wonder only that it did not come before. This I hope however will soon be at an end, for it is impossible that the (short-hand characters) can hold with you two months longer; what you have seen done (short-hand characters) this month past is nothing to what you will the month to come; for, you may be assured that the (short-hand characters) will (short-hand characters in the (short-hand characters) it will be impossible for them to resist the almost miraculous impulse. I observe what you say on the subject of Hamilton, and the manufactory; he had better, if he can, stick to it; a great deal might, and will be made of it here by-and-by, for at the peace the demand must be great, and as that event is (short-hand characters) I will make inquiries and preparations.—*I have written to you by a gentleman, an American, who will call on you, and give you a very long detail of various things; you will receive various propositions, which you will weigh and consider. He will instruct you also, what I meant respecting Old F. House; but the events of the last month, I think, will make any further consideration of it unnecessary, at least we think so, on a thousand other important accounts, in which what I said on Old F— was but a very slight part, however I might be interested on your account and my own* (short-hand characters) *it is likely will not take place; but all depends on the 21st; if it should, you had better be in town, and Mrs. S. in the country; but all this depends so much on circumstances that it is folly to speculate. I hope the* (short-hand characters) *may be averted; if it be not, I will more fully explain myself.*

"*I refer also to my American friend for intelligence, respecting the magazine; you will hear on that point what will give you pleasure*—Miss H. M. Williams will be the conductor in chief. As it will be a national work, you may be sure it will be most magnificent. The (short-hand characters) of safety, will intrust its regulation to her; and she will choose the proper assistants. You may therefore hint this to Gillet, if you can make out my writing, which no one else will.

"I am editor of another work, which is also national, of which you shall receive a proper account soon. You will receive now pretty regularly consignments of books; and according to the vend with you will be our activity. We have the capability of doing any thing; and we hope we shall find the means; we are tolerably rich, but may want now and then a hundred or two; you will not however be much troubled on this account. You will find what I told you to be true respecting bills on this place. The profit to both of us would be very decent, and I should be glad to have some good correspondents.

"You will have recd. Beresford's letters. You find that something may be done, what is to be (short-hand characters) if it does not give you too much trouble, I should be glad if you would—though I hope that I shall not much want it. His mother-in-law's death brings him somewhat nearer, and he has it otherwise in his power to make terms for other matters, both with his wife and the creditors. As to my plate I wished it sold, only that you might furnish me with the money, which would be much more accept-

able, as we could get it at half the price here; but as things are turning now more equal, probably it is not worth while. We are all very well and happy, and likely to see an end of the captivity of our countrymen, as those who made the decree, and caused it, are just arrested as traitors. As you write every Friday, I shall know when to expect a letter. You are in a fine bustle, I suppose, on the taking of Toulon, at this time. You will soon see things more extraordinary, perhaps the no (short-hand characters) here, as well as O'Hara, if he does decamp hastily.

"Your's, faithfully, I. HUFFORD.

"17th Jan."

"Messrs. Lawrence, & Co.
merchants, Rutland-place,
Thames-street, Londres."

[No. 7, read.]

"*Jan.* 24, 1794.

"My dear sir; I have received your various letters, which come to me safe and unopened. I thank you for the prudence you have observed in abstaining from every thing that did not immediately refer to our own concerns, because this has inspired that confidence which leaves our correspondence unmolested. I would nevertheless wish you to address your letters in future to "Henvean Rue Forenestriere, Liege," as I get them a day sooner than the Poste Restante, and sometimes a similarity of names brings us letters that no way belong to us; for instance, Mr. Bristow, of the guards, quartered at Ghent, writes to Mr. Beckford, Poste Restante, Liege. Beckford is taken for my name, Beresford; and this is not the worst, for you may suppose that my patriotism would be a little suspected, to be told, by way of news, 'We are in great 'consternation from the retreat of the Aus-'trians and Prussians; how do you feel at 'Liege? Toulon you know, I suppose, is eva-'cuated; these Carmagnols fight like devils; 'but we hope to give them a dressing in the 'Spring.' Poor master Bristow, what will you do against twelve hundred thousand of such Carmagnols as the world has never seen; armies of which I know many private soldiers worth 5, 6, and 10 thousand sterling a year; and what against 140 millions hard money in the treasury, besides the paper? Good heavens, conquer this country? All this you will find explained in my letter to our philosophical friend, if it be received.

"*I have written to you two letters by an American friend, to whom I have given a letter of credit on you for what monies he may want, having received here, and arranged the mode of receiving; whatever you may pay him, you will receive of course the amount in return. I have recommended him to you as a person with whom he will have much business to transact of various kinds, and with a reference to this, I am rejoiced that you are getting disembarrassed of your present engagements; so far as you re-*[illegible] *you will find your future one in-comparably much more worth your attention. I enter into no detail in my letters, but leave himself to explain the business.* I shall give no sort of reply to any of Hamilton's letters, respecting the manufactory, as you request. I wish nothing decisive to be done till about the middle of next month, by which time you will be able to know more effectually how to act. I notice what you say about the bills in your last letters, and refer you to what I have said on that point; whatever consignments of debts, or other things you procure, we will punctually execute, if it be executable; but we must make ourselves responsible for nothing. As to Carey's business I am sorry he has received the 1681. 10s. he shall receive no more; and I hope that no security is given for the remainder, as you seem to hint, for it would be unjust that the money should be paid into his house, seeing nobody will be paid by him. They owe my correspondent at Aix forty thousand livres, and laugh at him. *I notice what you say about Whitbread's application. It is well, but I hope, as I have also said, that you will have business infinitely more worth your consideration. If you have a partner, and ten or twelve thousand pounds, as I hope by what you tell me, you will be left more at leisure to attend to my friend's propositions. You will be surprised in reading my letter letters, to see how I waver on the subject of the house.* I do not think that all this preparation is absolutely necessary; the immense destruction lately undergone, must give a new change; but so far as I am concerned, pray do not dispose of my pictures to such a Goth I. Cooke. Do you know that some of them are beyond any price; for instance, the twelve small ones are originals of Teniers; I have the plates here of the very pictures: and the others are almost all originals. *If you wish to get rid of the house, it is very well; if not, stop a little till you see my friend.*

"As to Christie, and his concerns, you know the feelings I have on that head; both Dale and myself are resolved that they shall give up. We want only the cash to pay them. I have lost by that trickster, first and last, at least 40,000*l.* he is a fellow I should stand as far from as possible. I shall concert something with Dale on this head. I fancy in a little time I can send you the money. Barclay has just given me credit for the bills drawn on you, amounting to 220*l.* 12*s.* 6*d.* for which I receive 8970; you will calculate what such sum would bring with you for Paris bills. I send inclosed twenty pounds on Wright at six days sight, which you will place to my account, waiting others. I have drawn for nothing since the last hundred to Barclay, who has heard nothing yet of Dr. P.'s money. I procured Mrs. S. liberty, *by writing a letter to the Convention, who in two hours sent me their decree by an officer. I should have taken this step before, had I not been deceived by too much friendship. I have done the same favour for several others, and the case is not so bad of*

the rest, though the policy has been wretched. A man who has established three different manufactories in a country, has a right to some consideration; thank God I enjoy more than my share.

"For news I refer you to our papers, as I constantly see yours. What was done yesterday we are in great anxiety to hear. I have lately seen two vols. of letters from France. There are parts of two letters in the last volume worth your reading again. Dr. P.'s letter was a comment on them. Your's. truly, B. Beresford.

"I'll send the notes in my next.

"*We have taken 15 merchantmen, and the news is that we have taken 52 more.*

"Messrs. Lawrence and Co. Merchants,
Rutland Place, Thames Street, London."

[No. 8, read.]

"Dear sir;—I have received no letter from you since that which inclosed Bennet's, which, as I told you, I have forwarded in the surest manner to its place of destination, and of which you will know the particulars in a letter which a friend has taken with him on a journey towards you. I inform you in it that owing to the circumstances of the times, *I have for the present removed my account from Barclay to the house of Jean Louis Bourcard et Fils at Basle, whose house with you is Pattison, Lee & Co. where if any difficulties arise, any sums may be paid in on the account of Mr. B. Beresford, who is our resident at Basle, but as business calls him into various parts of Switzerland, letters may be addressed to him at the above mentioned house of Bourcard.* He writes me that he has drawn on you for 200*l.* at 10 and 60 days sight which you are to receive immediately from Drummond, to whom orders have been sometime sent for that purpose. I received a note yesterday from Barclay's first clerk, as he is himself gone to England, informing me that he had not yet received the 5,000*l.* sent him, as you informed me by the Ostend diligence. Pray will you give me the particulars of this packet, and also write to him on the subject, and that immediately. He also tells me about demurs on bills drawn on England; this means, I presume, only bills drawn from France, and for the people there, and not bills in general.—I have written to you more particularly on that point.—Ireland is not it seems included. I could have wished to have received some information of the tendency of this bill, at present I have only seen its outline. In the letter above mentioned I refer you for what I shall have farther to write, the chief purport of this being to inform you that the 5,000*l.* has not been received at Aix, and to beg you to see where the delay is, as you have written to me that it was long since sent. Yrs., truly,

"14th Febry. 1794. I. Hurford.

"*Mr. B. has made payable at your house, in case of need, 300l. on a banker at Dublin, and 75l. on a house in London---there is no doubt of their being honoured, but if any difficulty should arise, he holds the full property in American bills on Amsterdam, which shall be forwarded instantly to you; if there is any demur, you will not suffer them to go back. I wait to hear particulars respecting the tendency of the late bill on foreign payments. Write to me when the 200l. is received from Drummond, and also the two bills from Ireland.*"

[No. 9, read.]

"Dear sir;—I have received your letter of the 4th, and also the packet inclosing the inventory by Aix; and in answer to the last. After thanking you for your trouble, would wish every thing to remain *in statu quo*, as I do not think it worth while to dispose of any part; first, on account of Mrs. S. to whom most of these objects are precious, though otherwise of no value; and next, the rest will be of much greater service to me here, that is, the linen, &c. than what could be got for them. *With respect to the pictures, I would not by any means part with them, as they are most of them originals; in saying this, I have not much changed my sentiments as to the motives which led you to take this trouble; the thing is as fixed now as it was then, but circumstances may change, and render it unnecessary. I refer you to my American friend, and the letters which he carries you, for all that I should otherwise write on that head: but not recollecting that his business would take him so great a round, or rather not knowing it till after his departure, I have delayed writing by the post, which will have occasioned you, I fear, some uneasiness: you will, however, have received a letter or letters from Beresf. inclosing orders, and a bill on his account, which you will place to mine.* There is a letter sent to Coper, to pay in some money on account of Mrs. Williams. I have sent you the note on Wright; but I have drawn no more on you, for I have not yet received a sous of what I drew on so long since; so totally cut up is foreign credit, that I have been obliged to send back all the bills I have received, and yet I am at heavy expenses. Pray have you received any thing yet from Dorset? You may be certain that Losack is a swindler, for I can vouch that the money is truly owing for goods to twice the amount put into his hands; and R—— is not the only one he has cheated; if he could be found 'twould be so much gained: he has got also a depôt of gold watches belonging to some one here, I know not whom: he and Christie must never think of returning: I shall say no more of this man, as you say he is sunk into oblivion, but just to mention that amongst other extravagancies, and claims made in consequence, is that of a young girl who has obtained judgment against him for seduction, to the amount of 1,200*l.* I shall advise with Duler about something to be done with that house, as they will do nothing themselves. You will have received a letter from the person whose note you re-

ceived on Barclay; that I suppose will be instantly paid. Yesterday I received the following from Dunkirk—"I duly received your favour, with the two inclosures; one of the parties is in the situation (arrest) you was before advised in, and which prevents him saying any thing at present to the business: the other matter depends somewhat at your pleasure; its not likely to obtain more than 24*l.* that is, the bill on the English house cannot yet be paid, that on the French may at par. The drawer must make his calculations thereon, and you must give me advice; he will know that there is no course here, and that therefore the law obliges no other payment. I have not received Pys. livres, but Barclay has been some time advised that they will arrive; I will place them to his account, as he thinks proper; but what you say otherwise about him fills me with the deepest concern. I judge my letter miscarried, as it sometimes happens, but he will see its contents in a few days [short-hand characters] I shall write to him again in a few days. Sabo's business was very happily arranged before the arrival of the certificate, which would otherwise have been of no use, as there was a name, D. W. to it, which is proscribed here: it was a religious kind of plot; but the cons pirators are in their turn all in prison, and likely to suffer the punishment they were preparing for him: do inform his friends of this, particularly Mrs. Barbauld, to whom and the Citoyenne I beg to be remembered. Be so kind as to inquire of Gillet whether the plan he prepared for literary translation from French into English cannot be inverted with respect to this country—whether he cannot furnish us with the means of getting books of merit which may come out, to translate from the English into French; a bookseller and a printer of eminence has been with me on this point; and knowing that I have many literary acquaintance amongst you, wishes to engage in procuring such books as, from the reputation they are likely to acquire with you, would have a speedy sale: of this sort are travels, and such books as Mr. G. knows the selling value: now, if Mr. G. could procure the sheets of any such books as they come out, and send them over by post, he will receive the proportional profit. You may tell him that there are two cases going off to Hambro', one of books, and the other things also, since the necessary permission is now obtained: he will inform us whether any such works are in the press: travels never fail of one and two editions. This connexion is a very important one, and falls into our general plan. You may tell him that we can now make a catalogue of twenty or thirty different articles, one of which 4 vols. of 500 pages each. This I hope will be adopted [short-hand characters] and become a very

The M———must

but it is resolved on as I mentioned to you. We have been very busy of late, in particularly that way [short-hand characters] as ours is the most complete press here for certain books. I will make all possible inquiry about the person for whom Mr. Grey interests himself, by making application to the proper offices, and writing to the deputies on the spot.—What I procure this intelligence, what farther is to be done? and is it Grey of the House? I note what you say of T———I hope you will be successful. I shall write to Mr. S. Fenwick, *poste restante*, &c. and know from him what conveyance would be safe. I suppose I am to send him the money. Eleanor tells me that Miss White has not received the money; will you speak to her, and she will tell you. I could send you more bills, but I cannot procure the cash for them; if you have any to receive here send them, but I doubt whether any thing more than par will be paid. I have now answered all the contents of your letters. *You mentioned in a former letter that you thought I had too many concerns, for my ease probably, but not for my safety; the most important are those which I hope are to come, and of which you will be informed. But why remain unsettled? we may be disappointed; and I have seen too much of late to build on any thing. Your letters come to me always unopened, as the seal is untouched, and I am too well known here; though I would never wish you to write on politics, since I see all your papers to excite any kind of doubt about my correspondence, the letter you sent to Beckford came unopened; had it not it would have had no consequence; as it was, I sent it to one of the ministers for his amusement. I am told you have taken a partner; I hope, as you mentioned, that this releases you from some of the embarrassments which extreme application has given you; if the plan you are to be consulted on takes place, you will see the necessity of disembarrassing yourself more. I enter into no particulars, as you will receive otherwise such ample information. A letter I sent of explanation will not reach you, as the person was gone; however it is not material; but you do wrong to be anxious, as it may not take, though it appears absolutely necessary. Commercial schemes, like others, are sometimes visionary; here, however, there is solid ground. You are mistaken if you think I have changed my opinion respecting the propriety of leaving the house, I have only suspended it; judge yourself from what you hear; and I only observe, that the plan is not laid aside; and if it be put into execution, your position there will certainly be a very losing one. I shall not be so long in the interval of writing again, but remain with compliments and respects to all friends, yours, &c.*

I. Hurford.

"Tell (short-hand characters) that there's another* letter coming for him, and that I shall find the means, I hope, of conv-

* Illegible in the original.

nuing something important. Tell Eleanor that I have received her letter, as also the Drs. and a former letter also, dated last Augt. I will write to her very soon. Will you also tell Toulmin that I have received no letter from him; and he surely can find something to write. You may tell him that Miss H. M. W. has written a beautiful collection of sonnets, which will be sent him; they are to be printed in a work of her's now in the press. 16th Feb.

"Messrs. Lawrence and Co. merchants, Rutland place, Thames-street, London."

[No. 10, read.]

"My dear sir; I wrote you about a week since, inclosing to you a letter from sir Robert Smith to the duke of Dorset. On the same occasion I have written to lord Lauderdale, acquainting him also that I had passed the letter he recommended to my care for capt. Bennett, thro' the minister of marine, who has specially charged the commissary at Toulon to find him, and deliver it personally; and in case he was not there, to discover where he was placed, and charge himself with the answer which I will transmit thro' you to his mother when it arrives. I acquainted you also that sir Robert had written to Drummond to pay into your house 200*l.* which I have advanced him, and also 66. 13 from Mitchell of Cornhill; but this last, if you have received it, you must return, as Mitchell has drawn from Basil for it. Nothing embarrasses us more at present than money concerns, from the uncertainty we are in of what is passing in England on that head; nor do we know how the English here are affected by it. Our case is piteous indeed, if the law reaches us; for if we have the means of drawing, and receiving English value, we are not sure of our bills being honoured in England on account of this law; but we trust that it is only for French funds, and not for such as are necessary for our immediate existence. If such should be the case, application ought instantly to be made to government to prevent an accumulation of distress which nothing can exceed. I have shared with my imprisoned countrymen my own money, till I have none left; and the interruption which has taken place, and the cessation of commerce here, has left no means of procuring from any country but Switzerland. It is on this account that I have not received a sous from my correspondent at Aix la Chapelle, as I have been obliged to send back all the bills he has sent me for non-payment, and therefore have now removed my account from him to the house of Jean Louis Bourcard et fils, negociante à Basle; where, in future, you must address all your letters, instead of Liege; though I have met with no interruption in their receipt; but as it is likely, from circumstances, that an interruption may take place, it makes but four days difference to receive them according to the above address.—I mentioned to you in a former letter that Beresford was going into Switzerland. He is now resident there; and therefore you will receive, in future, letters and bills from him as soon as we know what the tenor of the law is; if it should be thus severe, application must be made.—The intention of your administration was to hinder the English here from passing their bills thro' the agency of government; but if they find other means of getting money, it is not the intention of your administration to hinder them. Consider this; and if it be necessary, let no application or industry be wanting, if the existence of thousands be a matter of any moment. I am not affected by it myself: on the contrary, having the full enjoyment of liberty as an artist, and also the confidence of my not being hostile to the cause of liberty, I am more than free. I am respected, tho' I keep aloof from all political acquaintance. I am indeed the chief support of my unfortunate countrymen; and my time is employed in relieving and alleviating their wants.—I am also happy to inform you, that my own affairs go on very prosperously, tho' the calls I have from the above circumstances are so many drawbacks. Beresford writes me, that he has drawn on you for 200*l.* one at ten days sight, and the other sixty, which you will please accept; and even if Drummond should not pay, you will receive the value in good time.—*I told you also in my letter, that I had received a letter from the American, and who was then going to London. You will have seen him by this time, and will have arranged his affairs with him.* To return again to the law in question: if any difficulty should arise, I shall order monies to be paid into your house, and not trust the interchange of bills. You must pay the sums into the house of Patterson, Lee, and Iselin, London, on account of the Swiss house, Jean Bourcard et fils, abovementioned; from whence they will have the means of procuring it; but I trust, as I have said, that the bill does not affect them.—I am informed that the wine is gone on your account, and I hope it will arrive to a good market.—I have got to receive here on account of Silv. 32 thousand livres, which I must wait the payment of till a division be made. Perhaps I shall receive it in wine, which I will forward to your account. The books are lying at Havre still; and we have great hopes of getting them soon away, as we have past all our examinations. In future there will be no trouble on this head. I wrote to you also respecting the bills you sent me. Your broker will inform you whether I should receive them at par, which is an immense loss; but they cannot otherwise be paid; and then I will remit you the value in English money. What other bills you may receive, you must send to the house abovementioned, who will pass them; but send none to me yourself; and be cautious only

about mentioning money concerns.—I have the opportunity of passing this by a friend to Basle, and therefore I speak thus explicitly; but your letters to me cannot reach me, without the risk at least of examination; *tho', as I have said, I am treated with a good deal of delicacy on that head.*—I have not yet received any news of Dr. P.'s money being arrived at Aix, but I suppose it is there. I am sorry he is going to leave us; but I suppose it is arranged beyond the power of alteration. Jefferson is expected here for some great purpose;———— through him Payne will get his liberty. I see him sometimes. There is nothing against him of any sort. God bless you. Make my best respects to all our friends. Yours, &c.

"*March* 4, 1794. "I. HURFORD."

"Messieurs Lawrence and Co.
Rutland-place, Thames-street,
London."

Mr. *John Clark* sworn.—Examined by Mr. *Law.*

You were, I believe, in the year 1794, captain of the ship the Elbe?—Yes.

Do you remember in that year bringing any passengers on board your vessel to Hull?—Yes, in that year I had many.

Do you remember coming to Hull on the 25th of February, 1794?—Yes.

Do you remember a passenger on board your ship leaving this direction with you? (No. 11. A.)—Yes; this direction was left with me by one of the passengers who came from Hamburgh to Hull.

Mr. *Thomas Maclean* called again.

Mr. *Garrow.*—Look at these papers [No. 17, and No. 18] did you seize them at Mr. Stone's house at Old Ford?—I did.

Mr. *Garrow.*—No. 17, and No. 18, purport to be an account stated and settled between Mr. Jackson and Mr. Stone.

Mr. *Thomas Maclean* cross-examined by Mr. Serjeant *Adair.*

You went to Old Ford to apprehend Mr. Stone on the Saturday evening, I believe.—I did.

You found in his house at Old Ford, the bundle of papers before produced?—I did.

Did Mr. Stone, when he knew of your business, make any endeavour to conceal any of these papers, or any other papers?—No, quite the contrary, Mr. Stone opened the drawers in which these papers were, and produced most of the papers himself.

Had he any opportunity to convey away or secrete any papers, or did he attempt so to do?—No.

Lord *Kenyon.*—He had no opportunity of doing so?—No; I remained in the room till I had marked all that I found.

Mr. Serjeant *Adair.*—During the whole time you were employed in searching for Mr. Stone's papers, was there any endeavour made by him, or any of his family, to conceal or secrete any of them?—Not in the least.

I have not the least reason to suppose that you are stating any thing which you do not believe to be true; be so good as to look again at the papers marked No. 17, and No. 18, about which you are now questioned, and tell me whether you recollect distinctly where those papers were found?—Those papers were found in a room like a library, where there were a great many receptacles, different drawers, but out of which particular drawer they might be taken, I do not recollect.

Did you go with Mr. Stone on the Monday to his counting-house in the city?—I did not.

Mr. *Garrow.*—Have you there No. 17 and No. 18, or No. 17 and No. 19.?—No. 17 and No. 19.

Mr. *Garrow.*—My inaccuracy in calling them No. 17 and No. 18, instead of No. 17 and No. 19, led the witness into the mistake.

Mr. Serjeant *Adair.*—Were the drawers and receptacles in which these papers were found, under a lock?—They were.

Who had the key?—I think I kept possession of the key from Saturday till Sunday, till they were taken out; I gave the keys to Mr. Stone to the best of my recollection, who himself gave out all the papers together, with the assistance of the messengers.

Mr. *Thomas Maclean* re-examined by Mr. *Garrow.*

You did not go alone I take for granted?—I did not.

My learned friend asked whether Mr. Stone, or his family, attempted to conceal any thing; would it have been possible, if they had made any such attempt, to have succeeded?—It would not.

Mr. *Edward Lauzun* sworn.—Examined by Mr. *Garrow.*

Did you assist in the search at Mr. Stone's house at Old Ford?—I found this paper (No. 18), in Mr. Stone's house in London.

Mr. *James Walsh* sworn.—Examined by Mr. *Wood.*

Did you know Mr. Jackson?—I knew the late Mr. Jackson.

Are you acquainted with his hand-writing?—I am.

Look at this paper (No. 11, A.) whose hand-writing do you believe it to be?—I believe it is Mr. Jackson's hand-writing.

Look at No. 17, No. 18, and No. 19; do you also believe them to be Mr. Jackson's hand-writing?—I believe them to be his hand-writing.

[No. 11, *A.* read.]

"John Cokayne, esq. Lyon's-inn, near Temple-bar, London, enclose a letter to me this—for Mr. Jackson."

[No. 17, read.]

" State of my account with your brother.

" I left in his hands - - 11,800 Livres.
" He had to receive for me - 2,000

" Total left in his hands - 13,800 Livres,
which makes - - - - 575 Louis d'ors.
" I have reced in specie ——
from Roah - - - - - 20
" I drew on him for 360 livres
to purchase gold at Calais,
making - - - - - - 15
" Remains now in your bro- ——
ther's hands - - - - 540 Louis d'ors.

" N. B. In the above statement, money and paper are considered at par; which is the case as to your brother, as specie and assignats are to him of the same value."

[No. 18, read.]

" 15 *March*, 1794.

" Received of Mr. Stone fifty pounds in cash, and two bills, the one for twenty, the other for twenty-five pounds.

" Wm. Jackson."

[No. 19, read.]

" A Cross ⋌
" To Monsieur Dandibuscaille,
" The outward cover To
" Messrs. Texier Angely,
" et Massac,
" à Amsterdam."

" A Cross ⋌
" Outward cover,
" To Mr. Chapeaurouge,
" Merchant,
" Hambourg."

" In each a recommendation to forward the enclosed."

(To Mr. Thomas Maclean.)—Did you find this paper (No. 13) any where?—Yes, at Mr. Stone's house at Old Ford.

(To Mr. Holmes).—Do you believe that to be Mr. Hurford Stone's hand-writing?—I do.

[No. 13, read.]

" *My dear Sir; I have this moment received your letter of the 4th of March, in which you inform me, that you have seen Mr. J. and very prudently desist from any but general observations; it is very possible that you may correct his views, and I conjecture in what manner. I suppose we shall hear from him in due time, as he will have the means of sending. He has no doubt communicated to you all that was expedient, and I trust to him for the means of re-communication.*

" The act in question, is particularly distressing to those who are here in a state of confinement; and, though it does not affect me, I cannot help feeling much afflicted at the horrors it will occasion. I have written to Mr. Sheridan, praying him to procure some relief, and I apprehend from what I have seen in the papers that it was the attorney-general's intention, when the great object of the bill was secured, to bring in a fresh bill, probably with a view to this individual relief. I see that there is a provision in the act, stating that nothing in it shall be construed to extend to any act, which shall be done by any person, or in any place, by virtue of an authority, given by order of council or otherwise, &c. so that if a commission were appointed to examine into the nature of bills drawn from this country; and finding that they did properly come within the meaning of the act, as they certainly do not come within the meaning of the title of the act, individual relief might very consistently with its full operation, as to all the essential points, be granted.

" It is no inconvenience to me, that you have returned the bill of 100*l.* since I have reced. no value for it—there were two that I drew, I suppose the first is paid. I did not imagine that the payment of bills subjected the person paying to any other than double the amount on conviction; at least the act I have in my possession says so; however, I shall not draw any more on you, but pray you to pay into the house of Patterson, Lee, and Iselin, on account of Jean Louis Bourcard, et Fils, Basle, what monies may come to your hands, and I wo'd have you call on them, and mention the reasons why you cannot pay that drawn on you for 200*l.* from Basle, if you do not pay it, tho' that is not on French account; and, if Drummond gives you any money on Smith's account, you may pay it to them. If you receive that money it will indemnify you for the payment of the 200*l.* If you have not sent the assignats, you may pay them into that house on Bourcard's account, taking care to make your initials on the back of each, to prevent the exchange of them for false ones; and, if they cannot take them, you may advise with them on the best way of forwarding them to the house of Basle. I sho'd be very careful not to commit either you or myself in any transaction; but, if you could accept either of the bills which are drawn on you from Basle, I could order you the amount thro' Holland, without any delay.——

" When affairs are better arranged, I can open an account of some consequence; but at present, not knowing in the fluctuation of affairs where to fix, it is impossible. I go on with my printing, which will succeed very well, especially if there be any prospect of peace. I wo'd have you write directing your letters to the house at Basle, instead of Liege, till further notice; be very guarded, as we are still in a state of revolution, where very slight things may have serious consequences.

" In great haste, I subscribe myself your's faithfully,

" *March 15th*, 1794. I. Hurford."

" Messieurs. Lawrence and Co.
Negotiants, Rutland-place,
Thames-street, London."

John King, esq. sworn.—Examined by Mr. *Law*.

You are under secretary of state?—Yes.

Do you remember being present, at the seizure of any of the papers of Mr. William Stone, at Old Ford?—Yes, I was.

Do you recollect what time that was?—I believe the 3rd of May, 1794.

Do you recollect enquiring of Mr. William Stone, whether he had any correspondence under the signatures of Popkins, and Enots; or, if he knew of such a correspondence?—I remember telling Mr. Stone, that, if he would give up to the messengers, the correspondence that passed between him and Mr. Jackson, by the names of Enots and Popkins, his other papers would not be molested; he answered, that no correspondence had passed between him and Mr Jackson, by those names. In a short time afterwards, a letter was found upon the escrutoire, upon the writing table.

Please to look at that letter, and see whether that was found soon after you put that question, and received that answer?—It was signed—"Thonas Popkins."

Do you believe that to be the letter you found?—I did not mark any letter, I can only say to the best of my recollection, this is the letter.

I believe Mr. Lauzun was with you at the time you found that letter?—Yes, and Mr. Maclean.

Whether you are clear in your memory; that, before you found that letter, Mr. Stone had told you, that no correspondence had passed between him and Jackson, by the names of Enots and Popkins?—Yes—I beg to say again, I think this is the letter; but, I had not marked it.

Before you found any letter signed Thomas Popkins, Mr. Stone said, that no correspondence had passed between him and Mr. Jackson by those names?—He did.

Mr. *Edward Lauzun* called again.

Mr. *Garrow*.—It appears that you have marked this paper [showing it to the witness], as one of the papers found at Mr. Stone's.—Yes, this is one that I found there.

John King, esq., cross-examined by Mr. *Erskine*.

You attended the king's messengers, when they went to Old Ford, for the purpose of arresting Mr. Stone—were you present when he was arrested?—I was not, I came in a few minutes afterwards; they went into the house before me.

Please to recollect, whether it was not Lauzun that asked for this correspondence, between Popkins and Enots?—I do not recollect, whether Lauzun asked for it or not; but I am clear I did.

You do not know, whether Lauzun had not asked him for it before?—I do not.

Of course, if you did not hear the question, you cannot tell what answer was given to it—I believe the papers in general were all found lying there, without any concealment of any sort?—Many of them were found in drawers; and many of them were found in little holes, or places which made a part of this writing desk.

Not in any circumstances of concealment? No.

Did you observe any circumstances of embarrassment, more than must necessarily belong to persons in such a situation?—No, less than I should have expected upon such an occasion.

In consequence of the arrest, Mr. Stone was brought before the privy council?—He was.

You were of course present at the privy council?—I was during a good part of his examination.

Where was this particular letter, which you have just now spoken to, found?—It was found lying upon a table that would let down, from an escrutoire to write upon—it was lying open—I mean unsealed.

Not at all distinguished from the rest by any particular concealment, but intermixed with the others?—Yes.

Do you recollect Mr. Stone's saying, voluntarily, himself, to the privy council——

Mr. *Law*.—I believe his examination before the privy council was taken in writing?—It was.

Mr. *Law*.—I object to any parol examination as to that.

Mr. *Erskine*.—Did you go to Mr. Stone's counting-house in consequence of what was said by him at the privy council?—I cannot answer for that; I believe it was in consequence of that.

When you went to the counting-house of Mr. Stone, in consequence of what you have just described, were both those papers (the account and receipt) or only one of them found?—I have seen these papers before, but I cannot now recollect whether they were found at the counting-house or where.

Lord *Kenyon*.—What are the numbers of those papers?

Mr. *Erskine*.—No. 17 and No. 18.—Did you see these papers together?—I cannot say whether they were together; I have seen them before, but cannot answer as to where they were found.

Do you remember a particular satisfaction being expressed by Mr. Stone at finding those papers?—I do: he said that was the paper they were looking for.

Was the discovery of that paper made by him?—If I recollect right, Mr. White found it—He was with me.

An impression seemed made upon your mind upon that occasion?—The impression upon my mind was, that when it was found, he expressed himself to be pleased.

Mr. *Law*.—But he did not lead to the finding of it?—I cannot speak as to that; I think Mr. White found it.

Mr. *Wood.*—[to Mr. Walsh] Look at this letter, signed Thomas Popkins, and say whether you believe it to be Mr. Jackson's hand-writing?—I do.

[No. 20, read.]

"*Dublin, 5th April,* 1794.

"Dear sir;—Owing to a variety of incidents, which I will explain when I have the pleasure of seeing you, I have been prevented writing until the present moment. Some very excellent friends to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service; and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions; accepting, as I do, the will for the act, they have a claim on my gratitude.—I request, my dear sir, that you will dedicate an instant, on the return of the post, in acknowledging the rect. of this letter; and if you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me, as the assizes at Cork are about to commence. In the course of a very few days I will give you some information respecting the bills which you commissioned me to present. I hope your lady enjoys better health; and, with very sincere wishes for her and your happiness, I request you to believe me your real friend, THOMAS POPKINS.

"I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed.

"You will have the goodness to enclose your letter or letters to me under a cover, thus directed—

"John Cokayne, esq.
Hyde's Coffee-house, Dame Street, Dublin.
"Pray write immediately.
"Mr. Stone."

Oliver Carlton esq., sworn.—Examined by Mr. *Garrow.*

I believe you are one of the officers of the police in Dublin?—I am.

Were you one of the persons who assisted in the apprehension of Jackson, who was afterwards tried there for high treason?—I was.

Did you seize any papers at the time of his apprehension?—I did.

Look at this paper [showing the witness No. 21] and tell me whether this is one of the papers you seized upon that occasion?—It is.

Mr. *Reuben Smith* sworn.—Examined by Mr. *Garrow.*

Are you acquainted with Mr. William Stone?—Yes.

Have you seen him write?—I have.

Look at this paper and say, whether you believe it to be Mr. William Stone's hand-writing?—I think it is.

Look at the address—Do you believe that to be likewise Mr. Stone's hand-writing?—There is a variation in the address that I can hardly speak to: the body of it I believe to be his.

Does it appear to you to be his hand-writing, though varied, or is there a doubt in your mind whether it is his hand-writing or not?—It it the character of Mr. Stone's writing, but in some respects it is varied.

The body of the letter, and the reversed signature, you have no doubt are Mr. Stone's?—The body of the letter has the appearance of being Mr. Stone's hand-writing.

And the signature?—The name being reversed, I can hardly speak to that.

With respect to the superscription, do you believe that to be written by Mr. Stone, though the character is altered; I hardly know how to answer that question; there seems to be a difference.

Is the variation such as to make you doubt whether he wrote it?—There is a variation of the character: there is a part is familiar to me as his writing; the "P" is not familiar to me.

Do you believe the contraction "Mr." is written by Mr. William Stone?—Yes, I believe it is.

Lord *Kenyon.*—Upon the whole, judging as well as you can, do you believe it is his hand-writing?—I should think it is; but there is some variation from his ordinary character.

Mr. *Reuben Smith* cross-examined by Mr. Serjeant *Adair.*

Are you well acquainted with Mr. Stone's hand-writing?—I have seen him write many times.

Are you so acquainted with it as to enable you to form a competent judgment of his hand-writing?—Yes, I think so.

Have you always said so—or rather have you never said otherwise?—I do not think I ever did say direct otherwise in my life: I should say it is a very difficult thing to swear to hand-writing.

Have you never to any body expressed a doubt with respect to Mr. Stone's hand-writing?—No, never.

Mr. *Peter Longrigge* sworn.—Examined by Mr. *Law.*

Are you acquainted with Mr. William Stone's hand-writing?—Yes.

Have you seen him write?—Frequently.

Look at that letter [showing it to the witness] and say whether you believe it to be his hand-writing?—I believe the body of the letter to be his hand-writing.

Does the direction strike you as his hand-writing, from your knowledge and recollection of his hand?—It does.

[No. 21, read.]

"Dear sir, I yesterday reced yours of the 5th instant. I am happy you find yourself so

agreeably situated where you are. I have received no letter for you, but the day after you left me I reced one, to say your first letters were received. I have received another since, in which mine was acknowledged, which I wrote the post after Gillet was with us, but no mention was made of any other.

" I have not made use of what you left with me. What a wonderful change there is in the family; will it tend to good? I confess I think better of it now than before. I want what you possess, a knowledge of the several branches of it, to form a proper judgment of their conduct in the last fracas.

" Political affairs seem taking a strange turn, if we take into our view the great whole. I cease to wonder at any thing *We* seem, I think, to be the only party resolved to go on with vigour. The king of Prussia publicly avows his disinclination; and I think the French, as well as the emperor, show it by their inaction; but to what can the proscription now going forward in Paris tend? Will it purify them, and make their conduct less exceptionable, and their government more fix'd and permanent. I really feel a kind of awe in thinking on those subjects, and see every day new matter to astonish me. We are all tolerable well. I remain yours, very truly, W. Enors.

" *April 11th*, 1794.

" P. S. Since writing the above, I have received a letter, in which is, 'I have received 'our friend's letters, and you must tell him, 'that having given them to the proper people, 'he must, in future, address his friend Nicho-'las, and not me;' and in the conclusion, he particularly requests he may not be written to.

" I feel particularly happy that the several letters have been received, and I trust that even in the peculiar circumstances of the family, they will produce proper effects."

Mr. *Garrow* to Mr. *Maclean*.—Look at these papers, No. 11, No. 11*, and No. 12; did you find them at Mr. Stone's house at Old Ford?—Yes.

Mr. *Garrow* to Mr. *Longrigge*.—Look at No. 11: do you believe that to be the hand-writing of Mr. William Stone?—Yes.

Do you believe No. 11* to be his hand-writing?—That is not.

Is any part of it Mr. Stone's hand-writing?—There is a postscript which has since been crossed through, part of the writing on the second side of the sheet, and part on the third side of the sheet, are Mr. Stone's hand-writing.

Look at No. 12, do you believe that to be Mr. Stone's writing?—No part of this, that I see, is Mr. William Stone's.

Do you know whose hand-writing it is?—I do not.

Mr. *Peter Longrigge* cross-examined by Mr. Serjeant *Adair*.

Do you know whether this first page of No. 11*, is Mr. Stone's hand-writing?—It is not, except what is crossed out.

[No. 11, read.]

" Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs:

" There are no petitions against the war.

" There are courtly verdicts given by juries, with few exceptions.

" There are no mobs, though much distress.

" There is much readiness to enlist as soldiers.

" There is much quietness in being impressed on the part of seamen.

" The votes of parliament are nearly unanimous, though the parliament has run through half its length, and the members of the House of Commons look to their re-election.

" The stability of lord Chatham continues in defiance of all his neglects.

" Terror pervades the friends of liberty, who would soon show a different appearance, if they were countenanced by the majority of the people.

" The temper of England is in favor of the first French revolution, but not of the second. However, on the whole, it shows symptoms of being adverse to the present situation of the WAR, not from disliking its principles, but from seeing little profit in it. At the same time that they think its main object unattainable (namely, the overthrow of the present French system), they would be more earnest for peace, had they either suffered enough, or did they think the present French government sincerely disposed to peace.

" There are many persons attached to the principles of the French revolution in England, if they are reckoned numerically, but they are as nothing compared to the great mass of the people who are indisposed to them.

" In Scotland the proportion of democrats is increasing, but they are as yet but a small minority.

" Ireland will follow the democracy of Scotland, each of these countries wants time only to convince itself in it own way, but it will not be convinced by a French invasion.

" If France were to invade England, every man would turn out from good will or from fear, and the few who are discontented would be quelled with ease, as the French citizens were by La Fayette in the Champ de Mars, or the disaffected lately by the commissioners in Alsace.

" There could be but one line of conduct for Englishmen to pursue, should the country be invaded—they must defend it.

" Wars being but the means of attaining peace, and the well meaning among the subjects of the confederates being told that the French are so adverse to peace, or ask such

preliminaries that it is in vain to treat with them, it would be highly useful if France declared, after any new successes which she may hereafter obtain,

" Her aversion to conquest,

" Her disposition to peace,

" Her desire that other nations should govern themselves,

" Her determination of changing the system, if the war against her is continued. And it would be useful also if every convenient opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace, and also if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language, which has an astonishing effect in pacifying the English, and indeed in pacifying Europe.

" It would tend much to conciliate the minds of the English, were the Convention to decree the liberation of all the English now in a state of arrest, unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country within a certain space of time.

" It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war.

" It would be very adviseable to have copies of the more important decrees and reports lodged at Havre to come hither by neutral vessels, for the purpose of being translated."

[No. 11*, read.]

" * Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs:

" There are no petitions against the war.

" There are courtly verdicts given by juries, with few exceptions.

" There are no mobs, tho' much distress.

" There is much readiness to enlist as soldiers.

" There is much quietness in being impressed, on the part of seamen.

" The votes of parliament are nearly unanimous, though the parliament has run through half its time; and the members of the House of Commons look to their re-election.

" The stability of lord Chatham continues, in defiance of all his neglects.—Terror pervades the friends of liberty; who would soon shew a different appearance, if they were countenanced by the majority of the people [seeing that there are no regular troops in England but militia, and a few cavalry who are stationed near the coast only.]

" The temper of England is in favour of the first French revolution, but not of the second. However, on the whole, it shows symptoms of being adverse to the present situation of the War, not from disliking its principles, but from seeing little *profit* in it, at the same time that they think its main object unattainable (namely the overthrow of the present French system), they would be more earnest for peace, had they either suffered enough, or did they think the present French government sincerely disposed to peace.

" There are many persons attached to the principles of the French revolution in England, if they are reckoned numerically; but they are as nothing, compared to the great mass of the people who are indisposed to them.

" In Scotland the proportion of democrats is encreasing; but they are as yet but a small minority.

" Ireland will follow the democracy of Scotland, but will remain quiet at present.

" Each of these countries wants time only to convince itself in its own way; but it will not be convinced by French principles, and still less by a French invasion.

" With the same ease with which France furnishes a navy of 68 ships, England could furnish twice that number. She would, besides this, borrow ships from Holland, Spain, and Portugal, and man them with a mixture of landsmen and foreigners.

" If France were to invade England, every man would turn out, from good will or from fear; and the few who are discontented would be quelled with ease, as the French citizens were by La Fayette in the Champ de Mars, or the disaffected lately by the commissioners in Alsace.

" Wars being but the means of attaining peace, and the well-meaning among the subjects of the confederates being told that the French are so adverse to peace, or ask such preliminaries, that it is in vain to treat with them, it would be highly useful if France declared, after any new successes which she may hereafter obtain,

" Her aversion to conquest,

" Her disposition to peace [and the terms on which she would treat if those were moderate (magnanimous) it would have a wonderful effect on the people of this country in creating an aversion to the war, liberating the unaccused English by a decree, restoring to them their property, and giving them leave to depart.]

" Her desire to let other nations govern themselves;

" Her determination of changing the system of the war against her, if continued; and it would be useful also if every convenient

* *Note.*—The passages of this letter which are here inclosed within brackets thus [ ], were in the original struck through with a pen.

opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace; and also if she declared her regret at the necessity of using harsh measures; and now and then employed philanthropic language, which has an astonishing effect in pacifying the English, and indeed in pacifying Europe.

"[The great objection in the English to treating for peace, lies in the fear that the proposal will be rejected by France particularly, without some strange preliminaries are acceded to; such as acknowledging the sovereignty of the people, &c. &c. They suppose too that France cannot treat of peace till the French territory is cleared of its enemies; whereas the constitution only says that peace shall not be concluded without it.

"It would be very advisable to have duplicate copies of the more important reports, and decrees lodged at Havre, to come here by neutral vessels for the purpose of being translated.

["Qu. Does not the forced loan allow the lender to take lands in exchange for his debt?]

"There could be but one line of conduct for Englishmen to pursue, should the country be invaded. [On such an occasion there would be but one mind through the whole nation.] They must defend it.

["It would tend much to conciliate the minds of the English were the Convention to pass a decree, liberating all the English now in a state of arrest, unaccused of crimes, and restoring to them their property; at the same time obliging them to leave the country if the Convention should see fit.—It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous; and if they did not hold out terms too extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war.]

[No. 12, read.]

"Dear sir,—I was a good deal surprised the other day at the degree of credit which you appeared to give to the rumour of a French invasion? but as I know many are of your opinion, and many more affect to be so, I feel desirous of stating to you the reasons why I cannot but disregard any such apprehensions.

"In the first place nothing appears to me more clear than that those who are now at the head of affairs in France are too wise to make such an attempt, without a prospect of some advantage adequate to the risk which must be incurred by both the army and the fleet employed in the service; and this advantage I should think must be something more than merely the burning a few towns and villages (supposing even that to be accomplished), or the creation of a temporary alarm. From general history too, and yet more strongly from their own recent experience, must they be aware of the difficulty of a hostile army's making any lasting impression on a people unwilling to receive them, and especially on an island in possession of a superior navy, and which can at any time call other fleets to its assistance.—If all this be true it is scarcely reasonable to expect such attempt, unless the French flatter themselves with the hope of co-operation on this side—an expectation as far as I am able to judge, still less likely to be realized than even that of success without it.—That numbers here are disgusted with the war I have no reason to doubt, but no symptoms have yet appeared of any general disapprobation of government, on the contrary ministers seem to have been successful in raising a strong spirit of attachment to every branch, I might almost say to every abuse of the constitution, nor do I think it possible for any man who impartially views the state of things and of parties in this country, to expect any other effect from an invasion, than an almost universal rising of the people to defend themselves against an attempt which they would consider as levelled at their constitution and liberty, and which they would therefore execrate and resist as much as the French did the duke of Brunswick's irruption. Much has been said of the progress of French principles here, if by this be meant no more than that at one time the opinion was rapidly spreading of the French Revolution having a favourable aspect on the happiness of Europe and of mankind, I firmly believe it—and I believe also, that a pretty general persuasion also prevailed of the existence of such abuses in our own government as required a reformation speedy and effectual—partly however from natural causes, and partly from artifice, I am convinced that these opinions have much decreased both in force and in extent; and that though the tide may turn, yet that it is not by an invasion that such a revolution would be brought about.—We should only wrap our cloak tighter around us, like the man in the storm, and refuse every offer of fraternity, which came in so questionable a shape.

"Sincerely wishing for peace, and thinking that these rumours of invasion are industriously circulated with the view of exasperating the people and of rendering them more in earnest for the war; I should be very desirous of stating publicly in parliament, every idea I have here communicated to you, if I did not know that my general attachment to the cause of liberty and the satisfaction which I have repeatedly expressed at the overthrow of despotism in France, have rendered me to a very considerable degree obnoxious, and expose my sentiments to misrepresentation of the most invidious kind; I trust however that a more pacific and liberal temper will prevail, &c."

William Smith, esq. M. P. sworn—Examined by Mr. *Attorney General.*

Do you know Mr. William Stone?—I do.

How long have you known him?—I was called upon upwards of two years ago to state how long I had known him; I believe I said then two or three years, that was two or three years before.

Mr. *Attorney General.*—Be so good as not to allude to any thing you were asked before, unless you are asked any question that alludes to it.

Lord *Keynon.*—How long have you known him?—I believe six or seven years.

Mr. *Attorney General.*—Look at that paper [No. 12.] do you know whose hand-writing that is?—It is my hand-writing.

Did you give that paper to Mr. William Stone?—I gave it to him in some manner or other.

Is it your hand writing?—Yes.

It has been proved to be found in the possession of Mr. Stone, do you know how it passed from you to Mr. Stone?—It either passed to him by my servant or by his servant; I either sent it to him or he sent for it, I certainly sent it him.

Had you any conversation with Mr. Stone about any person of the name of Johnson or Jackson, previous to sending that paper?—I had.

At what place had you that conversation? It was at an accidental meeting at Freemasons-tavern, the conversation could hardly be said to be about a Johnson or Jackson, but such a person's name was mentioned in the conversation.

Lord *Kenyon.*—Was the name Johnson or Jackson?—The name I believe was Jackson.

Mr. *Attorney General.*—Do you recollect, Mr. Smith, as this seems to be an important paper, what the nature of the conversation was that induced you to write this paper, as far as the conversation passed between you and Mr. William Stone?

Mr. *Smith.*—Is it wished that I should now state as nearly as I can what passed at that meeting?

Mr. *Attorney General.*—Yes, what passed at that meeting between you and Mr. William Stone—you will consider that the jury are to determine upon the facts which you relate, you will state what those facts were as well as you recollect them?—It is necessary for me, before I give any relation of those facts, to state that I was questioned upon this subject two years ago. I think it absolutely necessary to state what I am about to state, and I appeal to his lordship whether I am right or wrong in so doing; I mention it because I do not pretend to be able at the distance of two years to state with perfect correctness what passed in an accidental conversation at a tavern, and which is the only one I ever held upon the subject with Mr. Stone; but I was called upon within a short time after to state what passed upon that conversation, when it was much more fresh in my memory, and what I then did state, I stated upon my oath; and therefore I think it right to say, that if there should be any small variations, or indeed any differences in the relation I may now give, and that which shall appear upon that paper, it arises out of the natural consequences of the case, and for which I hold that my memory only may be answerable, and certainly not my intention.

Do you mean your examination before the privy council?—I do.

Mr. *Attorney General.*—State what passed, on such a recollection that you can take upon yourself to say it is the substance of what passed?

Mr. *Smith.*—Certainly at one of the meetings at Freemasons-Hall, Mr. Stone came to me, and said words to this effect—"Mr. Smith my correspondence with my brother has been interrupted for a considerable time, but a person has lately brought me a letter from him, to which he requests that I would send him an answer; he appears to be very much alarmed with the apprehension that the French intend to invade this country, but he thinks if any means could be afforded him of counteracting impressions which are there entertained, respecting the state of affairs in England, it may be advantageous." Mr. Stone himself appeared to me also————

Mr. *Attorney General.*—Be so good as tell us what he said, not how he appeared.

Mr. *Smith.*—When I say appeared, I mean from his expressions and manner; but, to get rid of all the inconvenience, I will say how he expressed himself.

Mr. *Attorney General.*—Be so good as inform us what he said and did, and the jury will be to determine upon it?—It will be impossible to state all he said.—Mr. Stone expressed himself also under similar alarm. He asked me, as near as I can recollect what my opinion was upon that subject: I told him in effect, I do not know in what words, that I thought he must be very well acquainted with my opinion upon that point; because he must often have heard me express my persuasion, that such an attempt would never be made; and I believe I might state reasons at the time very nearly similar to what I have in that paper. After some little conversation of the same kind, he told me, that "he had had some communication with Mr. Vaughan, whom I knew, upon the same subject; and that Mr. Vaughan had told him, that he thought there could be no impropriety in giving his brother that general information for which he seemed to wish; and that Mr. Vaughan had given him a paper containing some of his opinions on that head." Either at this or in some other part of the conversation he showed me this paper, and I believe he asked me my opinion of it, but I am not quite sure; some conversation ensued upon

it. I told him I thought that the opinions in that paper might be very true, or words to that purport, but that its expressions appeared to me in many points exceptionable; he informed me, that he had shown it to several other gentlemen, who were, I think I understood from him at the time——

Did he name any body he had shown it to?—He mentioned "that he had shown it to my lord Lauderdale and colonel Maitland;" I am not quite sure whether he mentioned any other person or not; "that they appeared, upon the whole, to think that the paper was innocent, but that they also had objected to many expressions, or to some expressions in this paper; but I am sure he gave me to understand that he did not mean to make any use whatsoever of this paper, if, upon consulting any friends, they should advise him against it.

Do you mean by this paper, Mr. Vaughan's paper, or your paper?—The paper I mean that was shown to me as Mr. Vaughan's.

Did any thing farther pass between you, or did you part with him then and write your paper?—I am endeavouring to recollect whether any thing farther did pass or not; I cannot recollect that any thing material further passed, excepting I believe I told him, that lest he should forget or misunderstand me, that I would put down what I had said to him in writing."—I do not particularly recollect any thing farther that passed.

I understood you that he said his correspondence had been interrupted for a considerable time?—I am almost certain that he did.

And I think you said he gave you to understand that he did not mean to make any use of Mr. Vaughan's paper, if, upon consulting any of his friends, they should advise him against it?—I have an impression upon my mind that he gave me to understand that.

You have stated that he said a person had brought him a letter; did he mention who that person was?—Only "that it was an American gentleman, of the name of Jackson," I believe he mentioned; but if he had said it was any other name it would have been the same to me.

That his brother appeared to be alarmed, and that he himself expressed considerable alarms of the same kind?—I think he, Mr. William Stone, expressed considerable alarms.

You objected to some passages in Mr. Vaughan's letter, as exceptionable?—I do not recollect that I pointed out particular passages; but I said, as far as I recollect, "that there were exceptionable passages in it."

You do not know where Mr. Vaughan now is?—Not in the least; I have neither seen him nor heard of him for a year and a half.

Did Mr. Stone inform you whether the gentleman who had brought this letter was going to any other part of the king's dominions?—Not a syllable tending towards it.

Did he inform you whether this paper that you sent him was to be communicated to any other person, and, if to any other person, to whom?—I understood from him—I do not mean to say what words he used—but I understood from him, that what his brother wanted of him was rather that he would ask of any half-dozen or half-score of his friends (of whom I understand he pointed out some) what their opinions were, rather than that he would send any paper from this, that, or the other person. That was the understanding I had of it, though I am incapable of saying what words he expressed himself in.

Did you ever happen to see Mr. Stone afterwards?—I do not recollect that I ever saw him afterwards; if I did, it must have been very transiently indeed; for I do not believe that I have exchanged six words with him from that day to this.

Have you never heard from Mr. Stone, one way or other, whether he had or not made any use of the paper you gave him?—I can say, confidently, that I never heard from that moment what became of the paper I sent to him, or Mr. Vaughan's paper, till I heard that Mr. Stone was apprehended in consequence of the apprehension of another person, whose name I then recollected to have been the same with the name he mentioned to me; and when I heard that the paper of Mr. Vaughan was found, either in his possession or in some other person's possession out of the kingdom, I was very much surprised at the circumstance.

I think you said Mr. William Stone informed you himself that lord Lauderdale and colonel Maitland had stated that there were exceptionable passages in this paper?—I rather think so; that is the impression upon my mind; but not that we entered into any particulars about the paper.

You say Mr. Stone told you that an American gentleman had come from his brother in consequence of the interruption of their correspondence?—No, not in consequence of the interruption of their correspondence.

But that this American gentleman was in this kingdom—had you the curiosity to ask who he was?—I do not recollect that I asked him one single syllable about him.

Did he mention whether he was a merchant, or, what was his character?—I do not recollect that he said any other of him but that, "he was an American gentleman," nor from what I have had occasion to know, or to hear, do I believe that Mr. Stone knew.

Mr. *Attorney General*. You are not asked to your belief. Then he did not tell you who this American gentleman was?—No, he did not.

Look at that paper [No. 11*], do you recollect whether that is the paper or not, that he showed you as Mr. Vaughan's paper?—I could not, in the least degree, swear to this, as being the paper, excepting so far as this [illegible] corresponds in point of language [illegible] which I have seen; it was some [illegible] as this; but that, in all I can [illegible]

remember rightly, there were some scratches upon the paper, in the manner in which this is scratched; but that is all I can say to it.

William Smith, esq. M. P. cross-examined by Mr. *Erskine.*

You have stated that you have been acquainted with Mr. Stone for six or seven years; were you in any confidence at all, or merely a common acquaintance?—I cannot say I was in confidence with Mr. Stone. I am ready to state of what nature my acquaintance with him was; it was having been occasionally in his company; I believe, at the house of Dr. Crauford, who married Mr. Stone's sister, meeting him frequently at Freemasons-hall, where he came every now and then; and Mr. Stone's applying to me, to endeavour to get passed in parliament a bill respecting the trade that he carried on; which I think he told me general Murray had taken in hand, but had for some reason or other deserted. I undertook to go to Mr. Rose upon that business for him; and, in consequence of that, Mr. Stone came to me several times; and that produced almost the only intimacy that I had with Mr. Stone.

I meant only to collect, that there was no particular intimacy between you, but only a common acquaintance?—Yes; I never was at Mr. Stone's house.

You are a member of the House of Commons?—I am.

I do not inquire into your circumstances—but you are a man of property?—I am.

Mr. Stone knew that you were a man of large property in this country, and a member of the House of Commons?—Mr. Stone had reason to be acquainted with my circumstances.

When Mr. Stone introduced this conversation to you, did he introduce it as a matter of confidence? did he tell it you as any secret, as as any matter which you were not to speak of to others?—He imposed no confidence on me; he acquainted me, that he had mentioned it to some other persons; and, I believe he said, that he intended to mention it to more.

You have related the substance of what passed between Mr. Stone and you; but you said you could not state the exact words which came from Mr. Stone. I should not put the question which I am now about to put, but, as you do not remember all that he said in the very terms in which he expressed what he said, I think I am entitled to ask this question: whether, from the impression on your mind at the time, from all he did say, you considered it as matter of any great delicacy, or as any thing criminal?

Lord *Kenyon.*—God knows what may be a matter of delicacy or confidence; I cannot tell.

Mr. *Erskine.*—I do not mean to urge the question, if it is not a legal one. The question occurred to me, because the witness does not undertake to state exactly the words in which Mr. Stone expressed himself. I will ask this question: whether you would have conducted yourself in the manner you did, if the matter had struck you in a criminal point of view?

Mr. *Attorney General.*—I must object to that question.

Lord *Kenyon.*—Many people may form different opinions upon that; some may think those things very meritorious, which others may think very criminal, and *vice versâ*.

Mr. *Attorney General.*—I will, to the best of my power, see that this trial goes on according to the law of the country. I cannot take Mr. Smith's opinion about the conduct of Mr. Stone; the jury are to judge upon facts as they are related.

Mr. *Erskine.*—I do not feel myself extremely anxious about it; and I am sure the attorney general makes this objection because he honestly thinks it is a proper one. No man who has been here, as I have during the course of this day, could doubt of that, if I had not various other means of knowing it; but as counsel for the prisoner, I must state my humble idea upon the subject; and, how far I think consistently with the law of England (for consistently with no other law can the question be put here), that this question may be put. There certainly are many men of many minds; and I am not asking Mr. Smith his judgment, whether this was a criminal, an innocent, an indifferent, or a suspicious matter; for, if I asked him that, I should be then asking that which it might be for your lordship or the jury to pronounce, but I am asking what struck his mind at the time?

Lord *Kenyon.*—I do not know what kind of examination it may afterwards open for the attorney general; it may warrant him in asking a great many questions, which I should be very sorry to have asked in a court of justice. If we admit this, a great deal may be asked of any gentleman who comes here, respecting the bearing of all his political opinions. I do not mean to put this personally and invidiously of Mr. Smith; but if a person of another description were here—some persons have had opinions hostile to both the religious and civil establishments of the country; and those persons, if they have formed their opinions fairly, if they do not act upon them, if no overt acts are produced, between God and themselves be it—no human judicature has a right to consider of it. If this question is to be asked a witness, whether he should have held the conduct that he did, if he had thought it to have been improper, that will lead perhaps into an inquiry of every witness that comes here, what his opinions of the affairs of state and religion are.

Mr. *Erskine.*—I have been led into error probably from my late practice, because I was allowed to ask similar questions: Whether the witnesses would have attended certain societies if they thought so and so? I was so long upon it, for a fortnight together, that I

fell into these questions, having been permitted by a very high court; some of the judges who now sit here, sat in that court.

Mr. Serjeant *Adair*.—I believe I can venture to assert this with confidence before one of the judges now present, that I should not have stated too many, if I had said fifty witnesses were asked if they would have continued members of the Corresponding Society, if they had believed that society to have illegal objects in view?

Lord *Kenyon*.—That question, for any thing I know to the contrary, might be properly asked; but we are now at a very remote distance from that question.

Mr. *Erskine*.—In the course the cause is taking, I feel it less my duty to insist upon it; but I would suggest, that this gentleman is the crown's witness, and for any thing that may appear to your lordship and the jury, he may be a person implicated in the transaction, though we know Mr. Smith not to be so; yet we must not look to the particular witness giving his testimony, for the observation would apply to any witness. This might be an act supposed to be done by Mr. Stone, conceiving he had some safety and advantage in making a communication to A. which he would not make to B.; and therefore I should have thought (but I am corrected by the judgment of the Court, and do not mean to struggle against it), that it might be material to collect, from the situation and character of the witness, what was the reason that he did not do that, which, if he had thought there was any thing criminal in what he was hearing, he undoubtedly would have done, and I might put this question to Mr. Smith at once: Why he did not give information to the secretary of state of what he had heard from Mr. Stone?

Lord *Kenyon*.—You may ask him why he did not communicate it to the secretary of state?

Mr. *Attorney General*.—I wish to state what this leads to. I will say I blame myself a little with respect to some proceedings alluded to, for not having done what perhaps it was my duty to do as attorney-general: but where is this to end? Suppose I were to state to that gentleman (I am not saying a syllable that the fact would authorize me in this case) but suppose I were to say to that gentleman, you have already said that the gentleman at the bar told you such and such things; I put that merely hypothetically, which it has been already proved to the jury, over and over again, are not true; if you had then known that these relations were not true, what should you have thought? Would any court permit me to ask that question?

Lord *Kenyon*.—No, to be sure.

Mr. Justice *Lawrence*.—I do not recollect that point stated by my brother Adair being particularly debated; that those questions were asked I dare say, but one great inquiry was what was the object of those several societies? it was only inquiries whether such and such things were their object; that is, whether in the course of their attending upon those societies, they ever observed any thing which would lead to that? not whether it was their opinion that it was legal or not? We have from Mr. Smith the conversation between him and Mr. Stone, that Mr. Stone put the question to him without any injunction of secrecy, or any confidence.

William Smith, esq. M. P., re-examined by Mr. *Attorney General*.

I presume whatever answers you have given to the questions, addressed by my learned friend, you mean now to state to this jury, that you gave, in answer to the questions I had the honour to address to you what you knew upon the subject?—I did.

Richard Brinsley Sheridan, esq. M. P. sworn.—Examined by Mr. *Law*.

Do you remember Mr. William Stone's applying to you some time in the month of March, 1794, and communicating to you any thing respecting an American gentleman, stated to have arrived about that time?—Yes.

Will you have the goodness to relate what he stated upon that occasion?—It was very soon afterwards, I believe, that I stated the whole of the conversation, in writing, which was delivered———

Mr. *Law*.—We cannot refer to that, we must take it from your present memory.

Mr. *Sheridan*.—That would be more likely to be a more correct statement—I recollect perfectly well Mr. Wilson, a gentleman whom I know, writing to me, from the Whig Club I think his letter was dated, stating that he wished to call upon me.

Mr. *Law*.—We cannot go into the contents of this letter; you will state what Mr. Stone said when he came to you?

I was going to state the occasion of my seeing Mr. Stone. In consequence of some letter, I expected to have met my lord Lauderdale and colonel Maitland at my house, to meet some gentleman whom Mr. Wilson stated in his letter he would bring with him, who would communicate something to me of importance. I found in the morning that lord Lauderdale and colonel Maitland had called, I did not see them, and afterwards Mr. Wilson introduced to me a gentleman, whom he named then as Mr. Stone. I thought at the time that I had never seen Mr. Stone before. I understood afterwards that I had been once in company with him at dinner—he stated him to be the brother of Mr. Stone, whom I had knowledge of, and who was then at Paris, and that he was desirous of communicating something to me, to have my opinion upon it, which he, Mr. Stone, thought would give him an opportunity of doing a very essential service to the government, and to his country. Either Mr. Wilson, or Mr. Stone, then informed me that they had already seen

Your lordship is speaking of what passed in the hearing of Mr. Stone?—Certainly; my brother pointed out a particular passage, and asked if Mr. Vaughan had wrote this; I think Mr. Stone said that the substance of this was what he had received from Mr. Vaughan.

Your lordship did not collect that it was the hand-writing of Mr. Vaughan, but the substance of what he had received from Mr. Vaughan?—The impression upon my recollection at this distance of time, is, that it was the substance of what he had received from Mr. Vaughan; there was some conversation I think upon that particular passage in the paper; shortly afterwards Mr. Wilson if I mistake not came into the coffee-house and there was again some general conversation and we left the room.

Can you recollect the subject matter of the passage to which colonel Maitland, your brother, made objection?—I think I should not recollect it.

Do you think you should if you were to see the paper?—I think I should not—I remember when I was before the privy council that I then thought———

We must not refer to that—your lordship has no recollection by which you should be able to know that passage?—I do not think I should.

Did Mr. Stone in that conversation state that there was any gentleman in this country with whom he had communicated upon that paper, or upon the subject of that paper?—Mr. Stone's conversation led me to the same conclusion, that I heard there was an American gentleman in this country.

What was the object of that American gentleman's mission here, as represented by Mr. Stone?—Mr. Stone did not give me any ground upon which I could conclude any thing particular relative to the mission of that American gentleman certainly—I found myself amazingly deceived, because I did not think he gave me ground to suppose that this American gentleman had powers, such as I went there in expectation that he possessed, for I could gather from Mr. Stone's conversation no specific power whatever.

I understood you to say you found yourself disappointed, because Mr. Stone when you saw him gave you no reason to believe that this American gentleman had powers such as you went there in expectation that he possessed, as you could gather from Mr. Stone's conversation, no specific power whatever?—Then you assume this, that because I did not feel myself satisfied that he had one particular mission in this country, that therefore I must infer from his conversation that he had another; on the contrary, I received no impression whatever from his conversation of what the particular mission of the American gentleman was in this country.

Your lordship misconceives me—do you recollect whether any representation took place from Mr. Stone of what this American gentleman was doing here?—No, on the contrary, my impression was, that there was a sort of indefiniteness that did not suit with the purpose I came there for.

I believe your brother the colonel wrote to Mr. Stone upon this subject?—I believe Mr. Stone never received any letter from my brother nor from me—I certainly know that there was a letter wrote, but I cannot say distinctly whether it was the letter of my brother or myself; I believe I wrote the letter, it was written under this circumstance, if you wish me to state it———

Did your lordship, otherwise than by a letter which was written and not sent, communicate to Mr. Stone any advice as to the conduct which he should hold respecting the American gentleman or the paper he had shown you?—I do not recollect.

Nor any opinion upon the propriety of what you had heard?—My brother who was there with me, started an objection to the nature of the communication contained in that paper which we saw, and in which I certainly acquiesced.

What was the nature of that objection?—That the paper, from the general tendency of it, was not a paper which either my brother or I would have wished to have received or sanction with our authority.

That was stated by the colonel with your lordship's approbation?—Not in specific terms; but that was easy to be collected from the general remarks upon the specific passage.

Your brother, colonel Maitland, is now abroad?—The last letter I had from him was on the 13th of January off Cork in Ireland.

He is abroad upon the public service?—He is.

Should you lordship know that paper again if you were to see it?—I should think so;—but I am inaccurate in saying I should know the paper; because, having seen two papers with different paragraphs, I should not at present be able to say which was the paper? I should rather suspect this [No. 11*] to be the paper.

The right honourable *James* earl of *Lauderdale*,—cross-examined by Mr. *Erskine*.

I need hardly ask whether all or any of this communication which you have stated was made at all as a secret or any confidence enjoined, that you should not mention that this American gentleman was in England, or was it common conversation?—It was not communicated in confidence.———I have been summoned also on the part of Mr. Stone; I wish to be examined now, if the gentlemen have any thing to ask me.

Mr. *Erskine*.—I believe we have not.

John Towgood, esq. sworn.—Examined by Mr. *Law*.

Do you remember having any conversation

with Mr. Stone, in the spring of the year 1794, respecting his brother at Paris?—I do.

Do you recollect his mentioning any person who had lately come over from that brother at Paris?—Yes; that a gentleman had come over from Paris, and had brought him news of his brother.

Did he tell you whether that gentleman had been making any, and what sort of inquiries?

Mr. *Erskine*.—What did he say?

Mr. *Tongood*.—I will state what he said.—Mr. Stone called upon me one day, and told me that a person had lately come from Paris, and had brought him news of his brother, and that this person had been asking him respecting the state of parties in this country, and how it was likely that the people would be affected towards the French in case of an invasion. Mr. Stone then said words to this effect:—that in short it was an opportunity of doing good to the country. He stated it to be his opinion, that, in case of such an attempt whatever difference of opinion there might be on other subjects, there would be but one opinion as to resisting any such attempt; he farther said, he thought it would be doing good if this opinion should be forwarded to his brother in France by this American gentleman.

You are sure he always spoke of him as an American gentleman?—Yes, an American gentleman.

Did you give him any advice as to continuing to hold any communication with this gentleman?—I believe I might say in conversation that it was certainly a delicate subject to converse about; in which Mr. Stone acquiesced; and said, that he had not, nor should he do any think that could implicate him in any difficulty, or words to that effect.—Mr. Stone then read a paper, expressing those sentiments that I have just stated; he farther said, that he had mentioned it to some persons of consequence; among others, I think he mentioned lord Lauderdale, Mr. Sheridan, Mr. Smith, Mr. Vaughan and colonel Maitland; and the reason he gave for it was, that he thought it would be doing more good that that opinion should go sanctioned by those names, than if it went merely as his own opinion.—That, to the best of my recollection, was the whole of the first conversation. I saw Mr. Stone some days afterwards, when he told me that he had delivered a paper to the American gentleman, strongly expressing the sentiments I have just mentioned; and he expressed himself much satisfied that, by considerable pains and trouble, he had done what he conceived an essential good to his country, by preventing the attempt of an invasion, if such had ever been in contemplation,

Had you any conversation with him about an invasion of Ireland?—None.

Did he tell you what was become afterwards of the American gentleman?—No, I rd any more of the matter.

Then you did not know from him whether the American gentleman was gone to Ireland or no, or what he was gone about?—I knew nothing more than I have stated.

Do you happen to know whether Mr. Vaughan is in this kingdom?—I only know from report.

You have not seen him abroad?—I have not.

For how many months have you ceased to see him in London?—I have not seen him for a year and a half.

John Tongood, esq. cross-examined by Mr. Serjeant *Adair*.

Were you acquainted with Mr. Vaughan?—Certainly; much acquainted with him.

Have you ever seen him write?—I have.

Be so good as look at that paper (No. 11); do you think that paper is his hand-writing?—I cannot swear to it.

What do you think?—I should think so, as far as I can judge. I really do not know enough of his hand to speak.

The first page in particular?—Some words appear to me to be like the character of Mr. Vaughan's hand-writing.

I do not ask you to speak with certainty, but if you can form any belief about it?—I should rather believe it was his hand-writing, than that it was not.

We are speaking of Mr. Vaughan, the member of the House of Commons?—Yes.

Mr. *Garrow*.—Look at the other parts of it; are they Mr. Stone's hand-writing?—I apprehend they are.

I understood you to say at first that you were rather inclined to think that was not Mr. Vaughan's hand-writing?—At the first blush of it.

But what is the inclination of your opinion?—If I were to say one way or the other, I should rather say that it was.

Mr. Serjeant *Adair*.—How long have you known Mr. Stone?—I have known him many years.

Ten or twelve years?—I think I was at school with him.

Have you known him pretty well?—I have known him well.

What did you conceive to be his character, as a loyal subject?—I never heard him express any disloyal sentiment through the whole course of my acquaintance with him: I believe him to be a friend to reform, but a friend to the constitution.

Samuel Rogers, esq. sworn.—Examined by Mr. *Attorney General*.

You know Mr. William Stone?—Yes.

Do you know Mr. Hurford Stone?—I have known him many years.

Do you recollect having any conversation; and if you do, be so good as state to my lord and the jury what conversation you had with Mr. William Stone relative to an invasion of this country?—He met me, I think it was in

the month of March, 1794, in the street; he stopped me to mention the receipt of a letter from his brother at Paris, on the arrival of a gentleman, who wished particularly to collect the sentiments of the people of this country with respect to a French invasion. Our conversation went very little farther, for it was in the street.

Do you recollect what you said to him, if you said any thing?—I recollect that I rather declined the conversation.

I ask you, not what you declined or did not decline, but what you said to him, if you said any thing?—I was in a hurry, and I believe all I said was to decline the conversation.

State in what language you did decline that conversation?—I said that I had no wish to take any part whatever in any political transactions at that time, it was a time of general alarm, and I wished to shun even the shadow of an imputation, as I knew that when the minds of men were agitated, as I thought they then were, that the most innocent intentions were liable to misconstruction.

Did he inform you who the person was?—No, he did not; I only learned that it was a gentleman arrived from Paris; I speak from recollection.

Did he inform you what gentleman he was?—I do not recollect that he did.

Did he ever call upon you after you had declined this conversation?—He did call upon me a few days after; and he read to me a paper, which I understood to be written by somebody else, but I cannot say who; and which went to show, as far as I can recollect, that the English nation, however they might differ among themselves, would unite to repel an invasion.

After you had declined a conversation upon this subject, from motives of discretion, Mr. Stone called upon you and showed you this paper?—He told me in the street he should call upon me.

Had you any farther conversation with him at any time upon this subject?—He mentioned at that time that he thought he should do his duty, if, by stating what he believed to be true, he could save the country from an invasion.

Did he ever tell you where this gentleman went to afterwards?—I never had any farther conversation with him upon the subject.

He never came to consult you about what this gentleman was doing any where but in England?—No; I believe I never met him again.

Samuel Rogers, esq. cross-examined by Mr. *Erskine*.

Mr. Stone meeting you accidentally in the street, communicated this to you?—In the open street.

Not with any secrecy?—By no means.

And you might have told it me if I had happened to have met you five minutes afterwards?—Very likely.

Have you had any acquaintance with Mr. Stone?—I have met him frequently for many years.

What is his character with respect to loyalty to his king, and regard to his country?—I had always an opinion that in that respect he was a very well-meaning man.

Evan Nepean, esq. sworn.—Examined by Mr. *Law*.

From whom had you those papers which you have in your hand?—I have no doubt that I received these papers from my lord Grenville.

You were, I believe, at that time under secretary of state?—I was under secretary to Mr. Dundas.

The Right Hon. *William Wyndham* lord *Grenville* sworn.—Examined by Mr. *Attorney General*.

(Shown the letter produced by Mr. Nepean.)

Did your lordship deliver these papers to Mr. Nepean?—I cannot say with absolute certainty that they were these papers. I remember delivering to Mr. Nepean letters which I had not read.

Were those letters you delivered to Mr. Nepean, transmitted to you in your official situation as secretary of state?—To the best of my recollection they were.

Mr. *Attorney General* to Mr. *Nepean*.—Are these the letters lord Grenville delivered to you?

Mr. *Nepean*.—I have no doubt they are; I did not mark them.

Lord *Kenyon* to lord *Grenville*.—Did these letters come to you in any confidential way?

Lord *Grenville*.—They came to me in a confidential way which ought not to be discovered; I have reason to believe that they came from abroad; I cannot state that with absolute certainty, but I have reason to believe it.

To Mr. Walsh.—Look at those letters produced by Mr. Nepean, whose hand-writing are they?—I believe them to be Mr. Jackson's hand-writing.

Mr. Serjeant *Adair*.—I am at a loss, my lord, to conceive upon what principle, or rule of evidence, it is that my friend offers these letters to the Court, upon the present indictment against Mr. Stone, from the very statement that we have heard of what they are; I am favoured also with copies, by the indulgence of the prosecutor. These are letters of which not only there is no evidence, that they ever came directly or indirectly to the hand or knowledge of Mr. Stone; but of which the direct contrary is immediately presumed by the manner in which they are produced; they are letters said to be written by Mr. Jackson, probably written by Mr. Jackson, transmitted by him abroad, not through Mr. Stone, and of the contents of which as such, it is impossible that Mr. Stone ever could have

any knowledge; I therefore conceive the question being now upon a charge against Mr. Stone, founded upon an allegation that he acted with a knowledge of the views of Mr. Jackson, and that he co-operated in those acts, it is impossible that any thing written, any thing said, any thing done by Mr. Jackson, that is not proved to have come to the knowledge of Mr. Stone, can be in any degree evidence to implicate Mr. Stone in the guilt of Mr. Jackson, whatever that may be, it is not loosely to enter into any question of the contents of those letters, whether they do show any degree of guilt in Mr. Jackson, whether they disclose what Mr. Jackson's views in sending those letters were, because it is admitted in the mode in which these letters are produced, that, in fact, they never did come to the knowledge of Mr. Stone. I confess, therefore, I am extremely at a loss to know upon what ground of evidence it is that they are offered.

Lord *Kenyon*.—The attorney-general will be so good as open this.

Mr. *Attorney General*.—I confess I am extremely surprised at this objection; the objection is taken upon this ground, that because these papers are not proved to have been seen by Mr. Stone, that, therefore, in an indictment where the overt-act is a conspiracy, they are not evidence to go to the jury. Now the indictment charges, that Mr. Stone conspired with Mr. Jackson, and others, to send intelligence, among other things, with respect to the state of affairs in this country: I put out of the question at present *quo animo* he did it, because that is to go to the jury by-and-by. I offer these papers, not only as the evidence of an act done in furtherance of the conspiracy, by Mr. Jackson, which Mr. Jackson I have proved to have come to him addressed by Mr. Hurford Stone, which Mr. Jackson I have proved to you was over and over again introduced in the conversations of Mr. Stone with certain respectable gentlemen called here, but I offer it as evidence to show that Mr. Stone communicated those papers, which were put into his hands by Mr. Vaughan and Mr. Smith, to Mr. Jackson; and I prove that by showing that here is this paper in the handwriting of Mr. Jackson; that paper that I am now going to offer, which though it comes from abroad is a paper which is a direct copy.

Mr. Serjeant *Adair*.—I will save the attorney-general the trouble, if he rests upon that ground; the second letter which contains a copy of that paper, I do not object to.

Mr. *Attorney General*.—I will state to your lordship presently, why I conceive there is no colour of objection to the other.

Mr. Serjeant *Adair*.—The letter containing the copy of this paper, I certainly cannot object to being read.

Lord *Kenyon*.—If it contains a copy, I think we are bound to receive it upon this ground: it goes in confirmation of what was said by some of the witnesses, that he had communicated Mr. Vaughan's letter. This is evidence corroborating the account given by the latter.

Mr. *Erskine*.—But it does no more than that.

Mr. *Garrow*.—We cannot permit that to be said in this stage of the cause.

Mr. *Attorney General*.—I did not mean to state one word more than was enough to introduce this paper; your lordship will understand me not to wave my right to state that it does more. Before the next letter is read, I will read two or three other letters found in the possession of Mr. William Stone, and which are letters addressed to him from John Hurford Stone from Paris, while Mr. Jackson was in England and Ireland.

[No. 33, read.]

"*London*, *18th March*, 94.

"My good friend; Lest a duplicate of the inclosed papers may not have reached you, I now transmit another copy. I writ last Tuesday to your brother at Hambourg.

"Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs: There are no petitions against the war. There are courtly verdicts given by juries with few exceptions. There are no mobs, tho' much distress. There is much readiness to enlist as soldiers. There is much quietness in being impressed on the part of seamen. The votes of parliament are nearly unanimous, although the parliament has run through half its length, and the members of the House of Commons look to their re-election. The stability of lord Chatham continues, in defiance of all his neglects, and his incompetence to fill his office. Terror pervades the friends of liberty, who would soon show a different appearance, were they countenanced by the majority of the people. The temper of England is in favour of the first French Revolution, but not of the second. However, on the whole, it shows symptoms of being adverse to the present situation of the war, not from disliking its principles, but from seeing little profit in it, at the same time that they think its main object unattainable; namely, the overthrow of the present French system. They would be more earnest for peace, had they sufferd enough, or did they think the present French government sincerely disposed to peace. There are many persons attached to the principles of the French Revolution, in England, if they are reckoned numerically, but they are as nothing compared to the great mass of the people who are indisposed to them. In Scotland the proportion of democrats is increasing, but they are as yet but a small minority. Ireland will follow the democracy of Scotland; each of these countries wants only time to convince itself in its own way, but it will not be convinced by a French invasion. If France were to invade England, every man would turn out, from good-will or from fear, and the [illegible]

are discontented would be quelled with ease, as the French citizens were by Fayette, in the Champ de Mars, or the disaffected lately by the commissioners in Alsace. There could be but one line of conduct for Englishmen to pursue, should this country be invaded; they must defend it. War being but the means of attaining peace, and the well-meaning, among the subjects of the confederates, being told that the French are so averse to peace, or ask such preliminaries, that it is in vain to treat with them; it would be highly useful if France declared, after any new successes which she may hereafter obtain,

"Her aversion to conquest,

"Her disposition to peace,

"Her desire that other nations should govern themselves,

"Her determination to change this system, if the war against her is continued; and it would be useful also, if every convenient opportunity were taken of declaring, that her present government is revolutionary; and that the constitution of June last will be acted upon at the peace; and also if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language, which has an astonishing effect in pacifying the English, and, indeed, in pacifying Europe. It would tend much to conciliate the minds of the English, were the Convention to decree the liberation of all the Englishmen in a state of arrest, unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country within a certain space of time. It wo'd tend also much to create an aversion to the war, were the Convention to decree the terms, on which only they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to the continuance of the war.

"It would be very advisable to have copies of the more important decrees and reports lodged at Havre, or some other port, to be sent over by neutral vessels, for the purpose of giving true information to the people here, which they much want."

"Thus far the paper; and all I shall say in favour of it is, that it comes from a quarter of high authority. I go with the author in opinion, which you may tell your friends in Amsterdam, or not, as you please; but I think, after the perusal, you may be perfectly easy as to any attempts against our happy constitution. Loyalty is the prevailing temper, and I trust in God, it will so continue to be. We have a minister as vigilant as Argus; he has a courier every three or four days from those furies at Paris, bringing all the information that can be gotten. What a stroke of excellent policy is this, at a time when these gentry think they take such care to stop all communication! I suppose some of the ushers of their assembly are in our interest. I have heard *that they have* a countryman of ours attached to their Convention; if so, I am happy to hear he still resolves what ought to characterize every Englishman; a love of the government of his native soil.—I will now endeavour to satisfy you on another subject. Not trusting to my own opinion, I desired a friend of mine, a real royalist, who has much intercourse with the first friends of the king and constitution, to procure, for me, the sentiments of one of them. He writ to him for the purpose, and the following is a copy of his answer:

"Dear sir; I was a good deal surprised, the other day, at the degree of credit which you appeared to give to the rumours of a French invasion; but as I know many are of your opinion, and many more affect to be so, I feel desirous of stating to you the reasons why I cannot but disregard such apprehensions.

"In the first place, nothing appears to me more clear than that those who are now at the head of affairs in France, are too wise to make such an attempt, without a prospect of some advantage adequate to the risk which must be incurred by both the army and the fleet employed in the service: and this advantage, I should think, must be something more than the burning a few towns and villages (supposing that to be accomplished), or the creation of a temporary alarm. From general history too, and yet, more strongly, from their own recent experience, must they be aware of the difficulty of an hostile army's making any lasting impression on a people unwilling to receive them, as especially on an island in possession of a superior navy, and which can at any time call other fleets to its assistance. If all this be true, it is scarcely reasonable to expect such attempt, unless the French flatter themselves with the hope of co-operation on this side; an expectation, as far as I am able to judge, still less likely to be realized than even that of success without it. —That numbers here are disgusted with the war, I have no reason to doubt; but no symptoms have already appeared of any general disapprobation of government; on the contrary, ministers seem to have been successful in raising a strong spirit of attachment to every branch; I might almost say, to every abuse of the constitution. Nor do I think it possible for any man, who impartially views the state of things and of parties in this country, to expect any other effect from an invasion than an almost universal rising of the people, to defend themselves against an attempt which they would consider as levelled at their constitution and liberty; and they would therefore execrate and resist, as much as the French did the duke of Brunswick's irruption. Much has been said of the progress of French principles here. If by this be meant no more than that, at one time, the opinion was rapidly spreading of the French Revolution having a favourable aspect on the happiness of Europe and of mankind, I firmly believe it; and I believe also, that a pretty

general persuasion prevailed of the existence of such abuses in our own government as required a reformation speedy and effectual; partly, however, from natural causes, and partly from artifices and want of better information, I am convinced that these opinions have much decreased, both in force and in extent; and that although the tide may turn, yet that it is not by an invasion that such a revolution would be brought about. We should only wrap our cloak tighter around us, like the man in the storm, and refuse every offer of fraternity that came in so questionable a shape. Sincerely wishing for peace, and thinking that these rumours of an invasion are industriously circulated with the view of exasperating the people, and of rendering them more in earnest for the war, I should be very desirous of stating publicly in parliament every idea I have here communicated to you, if I did not know that my general attachment to the cause of liberty, and the satisfaction I have repeatedly expressed at the overthrow of despotism in France, have rendered me to a very considerable degree obnoxious, and expose my sentiments to misrepresentation of the most invidious kind."——"Here is a letter from a man of weight and abilities; a man who perhaps, better than any other in this kingdom, knows the secret springs and views of our excellent minister, but unfortunately, from difference of opinion on the war and other matters, has quitted him. I leave you, after impartial deliberation on the letter, to let it have the weight you think it deserves. Communicate with your Amsterdam friends, who are attached, like yourself, to order and good government; and if, after all, you still continue to think an invasion a matter productive of the consequences you apprehended, I will sell out your property, as you seem inclined, and may direct me. I only represent to you what I can collect from the best sources in my power: these I give you as they come to me, and leave you to do as you please. We have emissaries here, or missionaries as I think they call them; but there is always somebody who gives information of their setting out, with a particular description of their persons and passports; so that, thank God, they are naturally well watched, and prevented from doing mischief. A report prevailed, the other day, that one had just arrived. It is happy for our government, that there are some among the French themselves well disposed to it. They render great service by making known every thing. Your friend here would undertake to send every kind of print, and every new publication, to Hambourg, if any man in the trade were there established to receive them. There is only one English bookseller, as they tell me here, at Hambourg, and he scarcely does any thing; as all kinds of Manchester goods are sent from Hambourg through Germany, so might prints, drawings, or any thing else that could find a sale. Inform me whether I am to speak further to your friend on the subject. You need not direct your letter. Enclose it to Mr. Parkyns, at Mrs. Brown's, Globe Tavern, Hambourg. He will give it me if I am there, or forward it. Look for my letter of last Tuesday. Remember me, my good sir, to our common friend. May we soon again meet at the English house, Amsterdam.

"Yours truly."

"Enclosed in a cover marked ✠."

Mr. *Attorney General* to lord *Grenville*:—Did your lordship receive these two papers at the same time, which you gave to Mr. Nepean?—I cannot say.

By the same channel?—I cannot say that, with absolute certainty.

[No. 14, No. 15, and No. 16, were proved by Mr. Maclean, and Mr. Lauzun, to have been found in Mr. Stone's house, at Old Ford.]

[Mr. John Holmes, proved them to be Mr. Hurford Stone's hand-writing.]

[No. 14. read.]

"Dear sir; I have received your letter, inclosing the note which I return, as nothing is paid; and, you must tell the parties to pay into Pattison's, the value which will be furthered. —*I have also received our American friend's letters; and, you must tell him, that having given them to the proper people, he must in future address his friend Nicholas, and not me.*—I hope you will pay particular attention to what I have said to you respecting Pattison, or we shall be much distressed. You will receive a letter from Mr. Beresf. respecting his succession: he has heard from his brother-in-law, and there will be not much difficulty in the arrangement. You must not write me, and tell our friends not to write to us any more letters, on this, or any other subject just now, as an interruption will soon take place; only your services by Pattison and Boucard, will be felt.—You may tell Gillet, that there are three cases gone for him—tell Kippis, who will tell Cotter and Miss —— that they must not write till they hear again from us.—We are all very well, and, in great haste, *I subscribe myself with all respects, to all our American brethren, your's, &c.*

"*30th March*, 1794. "I. Hurford.

"I shall write to you in a post or two again; excuse haste and brevity—though I shall hear from Bourcard.

Messrs. Lawrence and Co. Negts.
Rutland Place, Thames Street, London."

[No. 16, read.]

"Dear sir; This acknowledges the receipt of the letter you mentioned, which we had not heretofore received.—The case is, that the post is sometimes negligent, though letters of business are rarely interrupted.—I have nothing of moment to mention at present, only to beg you to pay particular attention to the account I sent you in my last, in which I fancy I omitted some articles; there are

cases sent to your order, but I do not at this moment know how to designate them—you shall have it in my next, unless, you receive it previously by our agent; you will also have the wine at length, though I have written to the contrary.—The laws renewed against the foreigners, without distinction, will drive most if not all the English, who resided at Paris, to the extremest distress; there are no exceptions it seems.—We have advanced to some of them, but can do no more.—I have not heard any tidings of the deposit you made to Barclay—I wish it were here, and in the manner, if you have not given it to him, that I pointed out in my last.—You will have received my note by Mrs. B——, which she promised to send to you.—It requires no particular answer—the chief attention I wish you to pay is to the wants I stated.—You will receive in good time the amounts—our friends are leaving us also, some for Philadelphia, some for Boston, and a few for Hamburgh.—*The accounts we receive from you respecting the House concerns, which our American friend has talk'd to you on, has given much satisfaction, though they hoped to have received something more favourable*—tho' I leave this place you may direct to me as usual, as I shall leave orders; and, for the present conclude in great haste, your's faithfully, I. Hunford.

"*P. S. It is strange that we hear nothing farther of the arrival of Mr. I. An acquaintance from Boston told me a few days ago, that his journey was retarded.----The shipping business is under consideration, and you will hear from us.*"

Messieurs Lawrence, and Co. Rutland Place, Thames Street, London."

21st April, 1794."

[No. 15, read.]

"Messieurs; we reced your letter containing the paper which was nearly the same as we had seen printed here some weeks previous. There is nothing that affects us in it so far as we can see, as we have no occasion to put you or ourselves to any inconvenience, if you regard with attention the letters you will have reced from us on the subject; if you do not, it is impossible to express the inconvenience, and even wretchedness to which we shall be subjected. *The pacquets you allude to have not yet been reced, and we know not where they rest.* I have given all the information which I could on the subject, but do not choose to trouble myself too much. I wrote to you a post since, to desire you not to write to me, as I did not know exactly where I should be, and Bd. not yet being returned from Switzerland. However, as you write with caution, you need not attend to it; but it is not necessary to write but when you have business to communicate. I attend to what you say with respect to Gillet, and am of his opinion, that it would be better to send the books instead of the sheets, and that can be done by the Swiss house I have mentioned to you. If my letter to Py. has been printed send me, if you can, the paper; if not, I will send you a copy—I shall send no more to him as you request. We have sent to your order to Hamburgh 4 cases of which you will soon receive the parlars; they are gone at length, after a thousand interruptions. As to the wine, I cannot yet particularly inform you. You mentd. in a former letter the payment of 200*l.* to George Grieve; he has received part of it from me, but he is very anxious to know by what means it falls to him, as you have only mentioned the circumstance without any detail. I find Wilson is his most intimate friend—Let Wilson therefore write him a line at the bottom of yr. letter, and tell W. that I am very angry with him for not making me acquainted with him before. Do let your answer to this be very expeditious. I am concerned to see Barclay's bills sent back, though thank God, as it happens, I had reced no value for them. If the Swiss bills are returned, my credit is totally gone, unless you adopt the method pointed out by paying the money to the house. I did suppose that Smith's money would be refused, but you will receive it by his [Short-hands characters] Bingham's also will be paid you. I attend to what you tell me as to money concerns, but I must have a heart of marble to see around me so much want without relieving it; and on the strength of the payment I have advanced, but not a great deal. I wish the deposit by sir R. B. was arrived, as I want them. If you can adopt the means I pointed out, you need not be in advance at all, as I would take care to forward the account; your demand is substantially as under:

Dr.				Cr.			
Bill to S——	..	300	0 0	2 Irish bills	.....		35
Do for Sabs.	..	100	0 0	Cotter	.....		50
Do to order sir R. B.		20	12 6	Gillies	.....		25
Do on Crauford 3 bills		150	0 0	Hammersley	.....		25
				Wright	.....		20
		570	12 6	Int. from 93 to 94	....		650
2 to Bourcard & Co. Basle		200	0 0				805
		770	12 6	Do to 1st April	.....		162
							967

"I know not if you have reced. Tarleton's money, which is 157 more, and I know not what you have expended for the manufacture. This acct. must be I suppose agst. me, but I must not be charged with respect to this affair out of any of the transactions here, it must be taken from the principal; in which case the interest must be diminished. You see I have not said any thing of bills that are not paid, such as Turnbull's, which I fully expected, and Sabo and Losack, &c. not Dorset's, nor even Bingham's, which will certainly be given you, as he is a person of fortune, and has written: so that I think it cannot fail, as his friends are to make application. You will receive to the amount of 2 or 3000 vols. immediately, so that you will be very much in hand, but at this time we perish if we have not assistance—as it is impossible to relate to you all the wants we undergo. You see I charge Bush's

bills as paid; if unfortunately they should not, the only remedy is, to take the money to the Swiss house mentioned, which I am sure you will do, as it is not for the account of any person in France. Grieve's money give me also an account of as soon as possible. *As to our American friend, the account I gave was very satisfactory, and to myself highly useful; but it is strange that his relations hear nothing from him. I would rather that he did not write to me so much on the subject; though I show them his letters, they are sad blunderers on this head.* This is a storm that we are weathering, but, thank God, we are in good shelter, our only wants are those I mentioned, to which you will, I am sure, be attentive. I shall ask no advance, for the profit will be sufficient for any enterprise. If Bush's bills be paid, I make 40 per cent. The Dunkirk bills will be paid on certain conditions, but I cannot receive above half their value, and I am empowered by your letter to do what I can with them. If you can buy any more at a low rate, I would purchase them. I have replied to all in your letter, except that which more relates to our concern in America, and on that I cannot at present say much. *Our friend you tell me is gone to Ireland—the business he spoke to you on is interrupted by this paper which you sent* [Short-hand characters.] *however it may produce very beneficial effects.* As I have written in great haste, I write very incoherently, but you can make it out. I shall write more frequent, but you need not answer but on business. We have had terrible work here, but it is now past, I refer you to the papers.

"We hear nothing farther of Jefferson's arrival. Some of our friends are gone to Hamburgh and Philadelphia. I shall remain some time longer. Inclosed is a letter to Rowan. You will hear soon on B——'s affairs, they take a prosperous turn. We are all in good health, and remain yr friends.

"*8th April*, 1792. I. HURFORD and Co.

"I shall send a bill on Grey for 50*l.* in my next, the 1,200*l.* I have sent back."

"Messrs. Lawrence and Co. Rutland Place,
"Thames Street, London."

Mr. *Garrow*.—From the internal evidence, there must be a mistake in the date of this letter.

Mr. *Attorney General*.—There is only one short passage in this letter material.

Lord *Kenyon*.—I understand you that these three last letters are not material as to making out your case, but as enabling you to lay a foundation for some material evidence.

Mr. *Attorney General*.—In these letters there are these passages,—"The accounts we receive from you respecting the house concerns, which our American friend has talked to you on, has given much satisfaction, though they hoped to have received something more favourable." "It is strange that we hear nothing farther of the arrival of Mr. I."—"As to our American friend, the account I gave was very satisfactory, and to myself highly useful; but it is strange that his relations hear nothing from him."—That is, his relations in France. Your lordship has likewise had a letter of the 30th of March, in which there is this passage, which is, I apprehend, extremely strong. "I have also received our American friend's letters, and you must tell him that having given them to the proper people, he must in future address his friend Nicholas, and not me."—There is likewise a letter of the 15th of March, 1794, which I believe your lordship has not been troubled with. —I am calling your lordship's attention only to this single fact: that in the letter which was last read, which was spoken to by lord Grenville, Mr. Jackson begins by saying that "Duplicates had been written of the Letters." Of these letters which are now read to your lordship, Mr. Stone states from Paris, "I have received a letter sent by you"—that is sent by you the person to whom he addresses his letter—that, therefore, shows that the correspondence was in fact kept up, as I take the liberty to submit it was, between Mr. Jackson, Mr. Stone and his brother in Paris, during Mr. Jackson's residence in this country. The letter which has been already read, signed William Enots, contains, your lordship will observe, a quotation from one of those letters which I have now been reading, namely, that the letters had been received and had been delivered to the proper people; but in future they are to be directed to Nicholas and not to me—that is quoted in the letter of William Enots to Thomas Popkins in Ireland.

Lord *Kenyon*.—But then that does not ascertain what that letter was.

Mr. *Attorney-General*.—It is a verbatim copy of that.

Mr. Serjeant *Adair*.—That letter is of the 8th of April 1792.

Mr. *Barlow*.—It is dated April, 1792; but that must be a mistake, because there is in the letter an account of interest from 1793, to 1794——"ditto to the first of April."—

Mr. *Attorney General*.—I now proceed to offer in evidence the other letter of the 17th of March, 1794, which Mr. Nepean stated he received from lord Grenville, and which his lordship stated had been communicated to him officially. The ground upon which I offer that letter is this—I have already proved it to be in the hand writing of Mr. Jackson. I state generally, because I feel it difficult to state particularly, but state generally, and, in opening the evidence, your lordship will give me credit, for stating it accurately, that it is a letter pointing out the places in which an invasion may be made in this country—and it is a letter sent abroad by Mr. Jackson, upon the 17th of March 1794.—The question between us is this—whether this letter can be read upon the trial of Mr. Stone—I conceive it to be perfectly clear that it may, and upon these grounds.—The overt acts charged, my lordships see, are a conspiracy between lord Stone, William Stone, and Jackson, to

give intelligence to the enemy where they might invade this country, and assisting each other in procuring that intelligence.—I do not recapitulate all that has been already proved with respect to the connexion between Mr. Jackson and Mr. Stone: but I take it now that I am entitled to state generally, that it has been proved beyond a doubt to be the common object of both to communicate—(*quo animo* is the thing to be considered afterwards) to communicate intelligence to the enemy upon this subject; and I take it to be established, that the intelligence which was procured by William Stone, was, in point of fact, communicated to Mr. Jackson first, and by Mr. Jackson afterwards, as is proved by Mr Stone's conversation, and by the evidence of lord Grenville—then I take it to be extremely clear, that when you have once brought together persons conspiring for one common object; that, whatever they do, with reference to the same end, is evidence to be admitted against both, subject always to the decision of the jury, how far that evidence, which is admitted against both, should be taken to bear in its inference, and effect, against the particular person.*—I am sure I need not put your lordship in mind of the case of a gentleman, now in the King's-bench, I mean Mr. Bowes, who was indicted together with a Mr. Bowes, an attorney of Darlington, for conspiring to run away with lady Strathmore; in that case, which was tried before Mr. Justice Buller, it was contended, that acts done by individuals upon that record, in the absence of each other, could not be given in evidence against persons who were not present—but the Court ruled in that case, that when you once prove, that they had a connexion with the conspiracy, every act that any one did in that conspiracy, was evidence against each, and that gentleman is, to this moment in the King's-bench under that sentence.—I take leave also to state, that this was ruled over, and over again, in the late state trials; it was the basis of the whole proceedings.

Mr. Justice *Ashhurst*.—Have you any recollection of the case of the Cock-lane ghost? I rather] believe something of the same kind was determined by lord Mansfield.

Mr. *Attorney General*.—This has been ruled over and over again, in trials for high treason.—The case your lordship mentions is older than my time in the profession of which I have the honour to be a member.—I remember my friend successfully contended on the late trials for the admission of similar evidence and it was not only so ruled in the late trials for high treason, but there was hardly one tittle of evidence that could be given on those trials, unless this was the rule—when you once prove that persons were in the same society, having one common object, the evidence of the acts of each, was admitted against all—the acts of the British Convention, for instance, were admitted—the acts of persons at Sheffield, were admitted as evidence of the acts of the Constitutional Society in London—the acts of the Corresponding society were admitted against the Constitutional Society, and the acts of the Constitutional Society admitted against the Corresponding Society—the acts of Watt at Edinburgh, were admitted the moment it was proved that they were all embarked in one common object—now the question here is, whether it has not been distinctly proved to your lordship thus—that Mr. Jackson came over here addressed to Mr. htone, that Mr. Jackson not only came over here addressed to Mr. Stone, but that Mr. Stone and Mr. Jackson were in habits of communications together while he was in this country, upon this subject—and it is farther proved, that Mr. Jackson and Mr. Stone continued their correspondence upon these subjects—that is proved in the way in which it is to go to the jury, after Mr. Jackson had left this country—then I say that stating this letter to contain the substance, though diversified in the manner of stating it of those communications which had before been made by Mr. Stone, and being communicated for the same purpose; I submit upon the common principle, it is the act of a person first proved to be embarked in the same scheme and project, done for the purpose of carrying on that common scheme and project.

Mr. Serjeant *Adair*.—I conceive, with deference to the Court, that the principle upon which this question is now to be decided is essentially distinguishable from both the cases that have been put by my learned friend the attorney-general, and from every case that I have ever heard of, in which evidence that can in any degree be assimilated to this has been received:—I am ready to admit that when several conspirators charged with confederating together for the commission of the same offence, are put upon their trials together, that then there cannot be a doubt that every piece of evidence which affects any one of them is admissible upon that trial, though it might not be evidence against others; and it then becomes the duty, and is always the inclination of the Court to distinguish the effect of those pieces of evidence which are legal evidence against one of the parties accused, and which are not legal evidence against the other—but the case is totally different where evidence is to be given of acts done by a conspirator, not upon his trial, and acts done by that conspirator when he was separated and at a distance from the person with whom he is accused of having confederated with the object charged in the indictment.

* See the discussions as to the admissibility of similar evidence in the trial of Thomas Hardy *antè* Vol. 24, pp. 429, *et seq.* 436 *et seq.* 447 *et seq*; and in the trial of John Horne Tooke pp. 74 *et seq.* 124 *et seq.* of this Volume. See also East's P. C. 99, 119.

My learned friend has just reminded the Court of the evidence that was most undoubtedly received (and for the reception of which my learned friend has truly stated I° successfully contended) in the late state trials, that evidence is essentially distinguishable in this —that the charge against all the prisoners upon those trials was of acts done by them as members of that society, alleged to be confederated together for the purpose, by their collective strength, and by their collective acts of overturning the government and constitution of their country—it was upon that ground, and upon that alone, that I ever contended—it was upon that ground alone that my friend the attorney general then contended (because it was not necessary for him to take any other), that the acts of these societies were evidence against each and every one of the prisoners who were members of these societies, after general evidence had been given implicating them in one general design, because from the very nature of these acts they were collective acts done by the society—resolutions entered into—proceedings had at meetings of these societies.

Lord *Kenyon*.—Was it admitted without introducing the parties against whom the evidence was given as members present at the time?

Mr. *Garrow*.—Certainly—in distant parts of the kingdom.

Mr. Serjeant *Adair*.—But they were collective acts of the societies of which those persons were members, or of societies proved to be in direct correspondence for the purpose with the society of which they were members —and I venture to say in no one instance in these trials, was the individual act of any member of those societies, not done as the communication immediately to the societies themselves, but expressive of the private sentiments and opinion of that individual member, given in evidence against any but the individual person; no declarations out of these societies had not in immediate communication and correspondence with those societies, no declaration of individual members were given in against any others, except the letters of the secretaries of the societies which were considered as evidence against the members of that society, of which evidence was given that they were implicated in one general design: but where is it possible to stop, if we are to admit as evidence against one of those supposed conspirators, ——— when the very question stated, and fairly, candidly, and honourably stated as it always is by my learned friend the attorney general, for the jury to decide is the intention with which Mr. Stone acted—where are we to stop if evidence is to be given to affect Mr. Stone with the criminality of a letter of a person writing letters in another country to persons with whom Mr. Stone is not proved to have any connexion, and not the tenor of which is ever pretended to be communicated to him; to the preceding letter that was produced by lord Grenville I waved the objection on the ground of its reciting papers which had been brought home to the prisoner, but in this letter there is nothing which has been brought home as evidence to Mr. Stone, there is no reference to any act of Mr. Stone—no proof in the slightest degree, of the privity of Mr. Stone to any one sentiment that this letter is supposed to express; and so far from its being evidence of a confederacy together for the same object, it is evidence to the direct contrary; because every part of the information communicated by Mr. Stone to Mr. Jackson was evidence tending to prevent an invasion of this country, and my friend the attorney general now proposes to affect Mr. Stone by a letter written, as he states, by Mr. Jackson, inviting and pointing out the places for an invasion.

Lord *Kenyon*.—That there is sufficient evidence to connect Jackson and Stone the prisoner at the bar, sufficient evidence given to permit that conclusion to be made, I have no doubt upon earth; with respect to this point, really I wish I was more acquainted than I am, with the course of criminal jurisdiction—if the question had never been decided, I should have extreme doubts upon it, and those extreme doubts which I should have would lead me in a criminal case to do otherwise than I should do in a civil case—in every civil case (I speak in the hearing of a great many professional gentlemen) wherever I have serious doubts, I follow the doctrine which I have collected to be laid down by lord Hardwicke; I receive the evidence, giving the jury the best instruction I can upon the effect of it; and I do it in the case of civil proceedings, without running the risk of doing any hurt, because if I receive it improperly, a season will come when the Court can correct my error—it is different in the case we have now before us, and therefore if the cases decided left my mind entangled in real doubts, the leading of my judgment would be to reject the evidence; but I do confess that what my brother Adair has said (who has certainly stated it as beneficially as he could for his client) leaves me much inclined to believe that cases decided have done away the doubts which I had; for if my brother Adair argued successfully before so great a tribunal as that which he alluded to, and if he was able to convince them that the acts done by the societies at Sheffield, were sufficient to ascribe guilt to parties not present at the time—if letters written by the secretaries of those societies, not communicated to the person to whom the guilt was to be imputed by these letters, otherwise than arising from their acting in concert with their parties—if that was so decided, I confess I think this point is decided.

Mr. Serjeant *Adair*.—The learned judge upon the bench who was present, will I believe

* *Mr.* Serjeant Adair was on the former trials one of the counsel for the Crown.

recollect that those letters of Sheffield and other societies, that were not addressed to the societies of which the prisoners were members, were I believe not received.

Lord *Kenyon*.—That leaves me precisely in the same situation.

Mr. *Erskine*.—What I am going to say I rather think will meet the recollection of my learned friends.—I looked last night at the trials to which my friend alludes, thinking that probably some question of this sort might arise; and I believe I can take upon me to say, without much hazard of being ultimately found in the wrong, that the Court, in admitting that sort of evidence, which was strongly objected to by us, pronounced its judgment in this manner, and I could almost, I believe, repeat those words. The counsel (meaning my friend who sits by me,* and myself, having opposed that evidence on the part of the prisoner) seemed to conceive that it was offered as evidence to affect the prisoner, whereas lord chief justice Eyre desired it might be for ever recollected—and I do positively aver that this will be found in the judgment of the Court, that the cause divided itself into two branches---I speak in the hearing of two learned judges who attended upon those trials---that the first went to show that a specific conspiracy existed, and then that the prisoner was a member of it; that though evidence might be given of any thing done or said by persons not present, nor proved to be co-operating in what they did or said with the prisoners, that such evidence belonged only to that first branch of the proof being competent to prove the first though not the second branch of the charge upon the record—that is to say, to prove that the alleged conspiracy did exist, but not to show that A, B, or C had any specific share in it: and if it had been ruled beyond that by the Court, of which I ever must speak undoubtedly with the greatest respect---yet I repeat that if it had been ruled otherwise, I should have considered the Court entitled to no respect at all, because there was admitted as evidence against the state prisoners what was done by Watt and Downie, and other persons in a three pair of stairs room at Edinburgh; though it was proved on all hands that the existence of these men was not known to the prisoners at the bar. Now there is nothing so shocking ot humanity, or to common sense, as to suppose that judges would have admitted the acts of men whose existence was not even known to the prisoners, upon any other principle but that sound one upon which it was put when received by the Court when they delivered their judgment; and to sooth us, when our minds were irritated by it, it was repeatedly averred that it was divided into two branches, and that unless the specific evidence so given and so received could afterwards be brought home to the knowledge of the prisoner, however he might be affected, generally, by other parts of the evidence, he could not be affected by that, which, though competent to be received, could not criminate a man, unless there was something to connect him with the specific thing from whence the crimination was to spring. If this evidence is only to be received in that fashion, and subject to that limitation, I do not believe my friend or myself can feel ourselves disposed at all to oppose our private judgment to the judgment of that august court of which I speak; but what we struggle against is, that what Jackson in this letter proposes to communicate can be evidence against this gentleman in any other way than that Mr. Jackson was guilty, and I do not care whether he was or no.

Mr. *Attorney General*.—This is not the time for me to trouble the Court with any answer upon the effect of this evidence, the question is, the competency of the evidence; and no eloquence can persuade me (if any could, that gentleman's would) that any evidence can be received in a trial between the crown and a prisoner which is not evidence to be put to the jury, whether it does affect that prisoner or not.---I say distinctly, and I hold it to be my duty to myself, but I have a higher duty to the Court, to state, that in these cases the evidence which was received, was received upon the principle that is stated—upon the principle that has been acted upon in every case of treason, in every case of murder, in every case of conspiracy that is to be found, where the act of any particular person has been given in evidence against any man absent. I would not upon those trials—I am a small man, but I have a right to say this respecting myself---I would not have offered the evidence, if I had not been perfectly persuaded that, according to the law of England, the evidence was receivable; and I am clear the law of England can never admit evidence to be received which it will not permit to go to the jury, finally to determine whether it does or not affect the prisoner: but where persons are brought together, acting for one and the same common end, whatever one does with respect to one and the same common end is a fact to be received in evidence against all of them; and, unless upon the discussion of the effect of the acts which individuals do, and the acts which other individuals do, engaged in the conspiracy, you cannot say the individual is guilty, you must acquit him, but still if he acts in furtherance of the said conspiracy, it must go to the jury, to determine whether the accused does authorize and concur in those acts done in furtherance of the conspiracy.

My friend surprises me when he seems to forget what passed on the late trials. Does he forget the letter of Martin, addressed to no person? and the letter of Thelwall, in which he spoke of the Americans having too much veneration for property, too much religion,

* Mr. Gibbs.

and too much law; and which was addressed to a particular person, but which had reference to the society who were charged (and I am bound to say now, without foundation) for conspiring. My friend says, if persons are trying together for a conspiracy, you may do it; I should be glad if he will inform me how I can try, upon this record, Mr. Jackson, who was tried and died a year ago. I take it in lord Strafford's trial, which was the instance Mr. Justice Buller gave, as some of your lordships may remember, in support of his opinion upon the subject, this sort of evidence was admitted. In the case your lordship knows of murder, where a man holds horses at a gate, and the murder is committed in the field, the acts in the field are to be given in evidence against the man who stands at the gate: why? because it is for the jury to consider, whether the standing at the gate, holding the horses, is an act done in execution of one common purpose with those who in his absence are murdering the person: in the case of riot and of burglary it is the same. I know this is a most important question to go to the jury, in the case I last put; if then the jury are of opinion that the man who held the horses did not know the purpose of those who were committing the murder in that field, he is not guilty of the murder, yet still it is to go to the jury, whether the act of holding the horses is or is not an act in furtherance of the common design of all; and if the common design of all to commit a murder is made out, then it is for the jury to determine, whether the holding the horses is a part of the conspiracy proved by antecedent evidence in the illegal act, or whether, on the other hand, it is not a part of that project to which so much guilt is attached; and, comparing the antecedent evidence, they are to say, upon the whole, whether the evidence shows he is guilty or not. My learned friend does not deny the competency of the evidence: I am certain he never would; and I am sure if all the bar of England had not agreed that this had been evidence admissible, that the learned judges would not have permitted it to have been given.

Mr. *Erskine*.—I have not been understood; most undoubtedly not—I said, if your lordship received this, which was the language used by my lord chief justice, which I could not then lay my hand upon, but in which I was confirmed by the recollection of my learned friend who sits by me, as having been used in more cases than one only,—that if this was afterwards brought home to the prisoner, then it only became criminal against him, though it was competent to be admitted.—What said lord chief justice Eyre in answer to me, when I said, I am not defending the life of Hardy only, but my own life, and every man's in the country; if Hardy is to be presumed to be cognizant, and the crown can show the proceedings of the Convention were known to, and approved of by Hardy, my objection falls to the ground. Lord chief justice Eyre said—"I take it for granted they mean to do that, because otherwise the proceedings of the Convention at Edinburgh can be nothing in this cause." the same says Mr. Justice Lawrence, in these words, which I shall read, in another part of the same trial—"In lord Strafford's case a great deal was proved against lord Strafford in Spain, the Low Countries, Italy, and various other places; and in lord Lovat's case, a great deal was proved against him that was done in various places, and which ultimately brought home and fixed upon him, would have amounted to nothing." Now, the reason why a struggle against it is this, for fear that the jury from hearing this paper read, might suppose it to be read as if it was the act of the defendant, whereas it is merely read as admissible evidence.

Mr. *Garrow*.—This is not the time to argue before this jury; the question is, whether it is receivable or not; my friend has made two arguments to show it is receivable.

Mr. *Erskine*.—I stated it that your lordship might know, as you seemed to desire to know, what was ruled upon that trial.

Lord *Kenyon*.—I have the good luck to know that from the two learned judges who sit upon my left hand; I learn from them that evidence of this kind was received, and upon that I think I am bound to receive it.

Mr. Justice *Lawrence*.—The first debate was in Hardy's case. I was not present upon that trial, but in the case of Tooke something of this kind was mentioned, and I believe I did refer to lord Strafford's case; but then the point under examination was, whether they could not give general evidence of acts of other people to show that there was a general conspiracy; that was the point to which I quoted lord Strafford's case. But when you have once fixed a number of persons to be conspiring to a common end, is not the act of one the act of all?

Mr. Justice *Grose*.—There was one point agitated upon Hardy's trial, in which Mr. Justice Buller and I differed from some other learned judges †: I was then most clearly of opinion, that where a number of persons were all fixed, as conspiring to one end, that the act of one, though separate from the rest, for the purpose of forwarding that act, was evidence.—That was my opinion; and after that I gave another opinion upon a similar point in that way.

Lord *Kenyon*.—There is no doubt upon earth that, up to a certain extent, the case alluded to in the argument of several persons going out to commit a burglary, and so forth, you may, in order to affect a person in the lane holding the horses, prove every thing that happens in the house, though that party

* Vide Hardy's Trial, *antè*, Vol. 24, p. 451.

† Vide Tooke's Trial, p. 128, of this Volume.

‡ See Vol. 24, pp. 451, 452.

was not present, nor cognizant of the fact: that goes a great way to remove the scruples one has sitting in a case of blood, which raises doubts in one's mind, when otherwise one should have no doubt, and really it was from those which I hope were not illaudable motives that I had that doubt."*

[No. 32, read.]

"*London* 17*th March*, 1794.

"As I have written to you by every channel, and not through one received a line in answer, you may naturally suppose I do not feel myself altogether easy in my mind, particularly as certain inquiries are making respecting me in a quarter unfavourable to your views and mine. I set out this evening for your native soil, and during my absence, the relative of our common friend will do every thing his rectitude of principle, and good heart, shall direct. I trust that my last letter gave you a thorough insight into the temper of the people of this country, so as not to leave you any ground to suppose that they would favour the French in any of their hostile views on our island. Your friends in Amsterdam may be perfectly safe on that head, not but there are many here, who are surprised that the French, if they really intended a descent, have not effected it to the northward of the Downs, where, as at Shields, Newcastle, and other places, there is nothing to oppose them; they might destroy the coal works with the greatest ease, if they should not choose to keep their landing. Shame on the neglect of our ministers, in not better defending the coast. You ask my opinion on the hope of success entertained by ministers here. I know you to be a staunch friend to England, yet I will not deceive you; from what I can collect, the chief dependence of ministers here for success, is on some machinations formed in conjunction with agents in their pay, to throw all into confusion at Paris in the government department. A person with whom I conversed yesterday, and who has an interest in the True Briton, a paper set up by government, told me, that in less than a week all Paris would be in anarchy; that Robespierre and his party would be sent to the devil, as those who would put every thing to rights, had got hold of the people. It is not by campaigning, but intriguing, that we must prevail. On this principle assignats are forging every day here, and I will endeavour in my next to

* The above arguments, and the decision thereupon, are thus reported in 6 T. R. 527.

"Evidence having been given to connect the prisoner with *John Hurford Stone* who was during the transaction resident in *France*, and domiciled there, and *Jackson* (who was occasionally in England, Ireland, and abroad, but generally in *Ireland*), and to show that they were engaged in a conspiracy for the above stated purpose; lord *Grenville*, the secretary of state for the foreign department, was called to prove, that a letter of Jackson's containing treasonable information, had been transmitted to him from abroad, but in a confidential way, which made it impossible for him to divulge by whom it was communicated.

"*Adair* serjt. and *Erskine* objected, on behalf of the prisoner, to the reading of this letter, as it had not been proved to have come to the hands or knowledge of the prisoner; and insisted that nothing could be received to affect the prisoner but his own acts.

"The *Attorney General* answered that, as the overt act charged, was a conspiracy of which proof was before the Court, the act of each conspirator in the prosecution of such conspiracy was evidence against all; that it had been so determined by Buller J. in the case of *The King v. Bowes and others*, 30*th May* 1787, who were convicted for a conspiracy to carry away lady *Strathmore*; and that the same principle had been also settled in *The King v. Hardy*, and *The King v. Tooke* at the *Old Bailey* in 1794. And that where several were engaged in the same design, nothing was more common than to receive the acts of one against another, though not present; as in the cases of murder and burglary, the acts of him who actually killed the person or broke open the house, were evidence against those who at a distance were employed watching to guard against any interruption.

"Lord Kenyon, Ch. J. said, he had no doubt but that there was sufficient evidence to connect Jackson and the prisoner: but that as to the evidence now offered, he should have great doubts of its admissibility, if it had not been sanctioned by the respectable authority of the judges who sat upon the late trials for treason at the *Old Bailey*; the determination of that Court, however, had great weight with him; and the instances in murder and burglary alluded to, went a great way to remove his doubts. That scruples in a case of blood might induce a doubt, when, on farther consideration, there would be no doubt.

"Ashhurst J. thought the evidence admissible.

"Grose J. If a number of persons meet towards one common end, the act of each is evidence against all concerned.

"Lawrence J. said, that in *Tooke's* case he had alluded to the cases of lord Strafford and lord Lovat to show that in order to prove a conspiracy, the acts of the different conspirators as connected with and in conformity with his own, were admissible evidence, though acts to which the prisoner was no direct party (*vide Rex v. Cope* and others 1 Stra. 144), and that in this case, evidence having beeen given sufficient for the jury to consider, whether the prisoner was not one engaged in a conspiracy for treasonable purposes with *Jackson*, if they were of that opinion, *Jackson's* acts, done in pursuance of that conspiracy, were in contemplation of law, the acts of the prisoner."

send you some, that you may know the true from the false. A madame Beaulieu, whose husband they tell me is at Paris, and who, when here, passed for a flaming democrat, has circulated to the amount of ten thousand pounds worth of assignats forged here. One Gill, who escaped from Paris, entered into a sort of partnership with lord William Murray, brother to the duke of Athol, and in conjunction with a paper maker, they struck off an immense quantity. Lord William is now in prison for debt, where he sells assignats. Gill was perfectly skilled in what is called the water mark, which is the great art. I should think if madame Beaulieu was on good terms with her husband, under the mask of democracy he might carry over quantities of this forged paper, but as I do not know, so I will not judge him. It would make a good article in one of Barrere's reports, to state the infamy of titled persons being concerned in such a traffic, and the perfidy of the English minister in suffering mills to be at work in making paper for forged assignats. What would not be said of the French if they instituted a mint for the coinage of guineas of base metal, and employed agents to circulate them? I wish Barrere knew this, and would give them a touch. It is certainly one of the crimes of the British government. It is true the minister urges, that consistent with the liberty every man has here to manufacture what he pleases, the government cannot interfere; but the minister can publicly disavow his sanction of the measure. He can say, that if it be carried on, it is without his knowledge, and contrary to his inclination; he can in short clear himself of the imputation; his not doing which, evidently implies his approbation of the measure. You say you wish for peace, so do I—but the ministry here flatter themselves that whenever they please, the French will treat with them for peace; I wish they were undeceived in this respect. I wish the French government would state their solemn determination, that they never will treat for peace with Pitt, or any of the present ministers. This would cause the people who are desirous of peace to make some movement to get rid of the present ministers, as obstacles to what they desire. Not that the French have more to expect from the opposition than from the ministerial party. They are none of them friends to liberty on an enlarged scale; they are all rooted aristocrats, friends to order; that is, to subordination, arising, not from a generous acquiescence to promote the common good, but from a slavish submission resulting from a presumed natural inferiority; the remains, in short, of the feudal system, lord and vassal. To this system, more or less, the ins and the outs of this country are attached, and all hopes of any effectual change in the prevalent system, are vain. It may be in embryo, but in my opinion, a long time will be required to ripen it into existence. The true way for France, and the best language she can hold out is, an inveterate hatred to the present ministers as perfidious monsters, enemies to mankind; a resolve deeming it derogatory to a people glorying in liberty, even to hold the most distant commerce with them, much less to treat on any object of consequence. That the people of England must sweep the offices of such vermin, before they can expect that Frenchmen will deign to talk to them. This lofty language will greatly affect the people here, and even with the opposition, the style cannot be too high; they are only aristocrats of another kind; serpents of a different coloured hue. This is my sincere opinion, resulting from observation, and a knowledge of characters. I enclosed your papers containing the opinions of the highest persons here, Lansdowne, Lauderdale, Smith, in Pitt's confidence, but who has left him, Sheridan, Lauderdale, Vaughan who writes the Calm Observer. I did this to satisfy you and your friends at Amsterdam. I send duplicate of those papers. The rumour of the king of Prussia's defection from the alliance has caused a certain dejection here; I am astonished the French do not seize the moment, and tumble in a mass on the enemy in their country. Now, while the wiseacres of this cabinet are deliberating, would be the very instant to strike a blow; it would cause such a consternation, were it attended with success, as might prove the death wound of the confederacy. Thank God the French do not seem to view the matter in this light; if they did they would have an advantage over us; although you have resided so long in Holland, yet you know our character, we are extremely subject to a panic.

"We are flushed with hope, elated in our own strength, and if a disappointment arrives in the moment, when we imagine every thing will fall before us, a gloom prevails, despondency ensues, and the least discomfiture, in such a moment, gives us a panic. This is the English character. Thus at the present we were about to open a brilliant campaign—Prussia was to be subsidized, consequently an addition of force, to the amount of eighty thousand men, was trumpeted in the ministerial papers, as an all-conquering circumstance; while expectation was mounted that this force was preparing to march, comes a check to our wishes, by the king of Prussia's declining to act as a principal. The cabinet is of course disconcerted; and, as I said before, were the French now to strike any blow, a general panic would ensue. Heaven forbid they should do so. You ask me about the country. The subscription for raising men, in the several counties, does not go on with the spirit that was expected. A langour prevails in the business. Great opposition is made to the measure, and as the minister dare not say that the measure is not illegal, a great triumph is thereby gained over him by opposition: little as such triumphs may appear on the general scale of things, yet they have a considerable effect on the public mind;

for the inference, or rather the reasoning, runs thus—the minister has done one illegal act, why may he not do another? and, what are we to think of a minister whose measures are illegal and unconstitutional? We should be afraid of such a man. He may have bad designs; that he has acted illegally is plain, for he dares not say to the contrary. His very friends who support him acknowledge the illegality of the measure. The case has been determined against him years ago. On these principles a triumph is gained. The French might improve on this, and tell their people, that Pitt, to raise money and men to defend the country, was obliged to have recourse to a method illegal, and unconstitutional. To carry on his plans, he trampled on the law and constitution of his country, and thus proved his disregard of every principle, at the time he was railing against the ruling powers of France for not paying attention to political ties. You ask me, how we may discover the views of our cabinet? I answer, that it is the easiest thing in nature; the views are to be discovered in the speeches of lord Hawkesbury, and Mansfield; the first particularly is the mouth-piece of the king, and has been so for five and twenty years. The last is an echo of the mouth-piece.—Thus when Mansfield tells you, as he lately did, that there can be no peace until the Jacobin faction is destroyed; you may rest assured, that those are the principles of Hawkesbury, and the cabinet. The same as to what Mansfield said, that no expense was too great to restore Louis 17th. Watch Hawkesbury principally, Mansfield secondarily, and you have the clue. In the House of Commons, watch Charles Jenkinson, Hawkesbury's son, and you discover the whole, *ex pede Herculem.*

"I shall hope, although I have almost done hoping, that the relative of our friend will have a letter for me. Direct for Mrs. Cokayne, Lyon's-inn, near St. Clement's, London.

"Let Capehorn enclose this, either to Hambourgh or Amsterdam, and desire his friend to forward it. I sent you a packet through a Mr. Parkyns, now at Hambourgh, which he engaged to forward, but I have not heard a syllable from him. I, however, shall continue my correspondence, and you must acknowledge them in the lump. The line of business you marked out, I will diligently pursue, consistent with the risk necessarily attending the export of articles perishable in their nature. I conclude with wishing all happiness to England. Tell my friends I never forget them. Adieu. Tell the father of August, how much I love him."

Inclosed in a cover marked ⋈.

One of the Jury.—Whose letter is that?

Mr. *Erskine.*—Mr. Jackson's.

Mr. Serjeant *Adair.*—It never came to the sight of Mr. Stone at all.

Mr. *Erskine.*—It does not appear that ever it was sent to Amsterdam.

Lord *Kenyon.*—It comes with a cross upon it, which cross was to be put by directions to a certain house at Amsterdam, then to go to Hamburgh, under another direction, and then upon each of the envelopes it was to be forwarded.

Mr. *Erskine.*—But it does not appear that that letter was sent to the person with the cross.

Mr. *John Cokayne** sworn.—Examined by Mr. *Garrow.*

I believe you are an attorney, resident in Lyon's-inn?—I am.

Were you acquainted with the late Mr. Jackson, who was tried in Dublin for high treason, and who died there?—I was.

Be so good as look at this paper [No. 25], and tell me by whom that address to Messrs. Lawrence and Company, Rutland-place, is written?—By me.

Look at that which was contained within the cover, and tell me to whom that was addressed, and by whom?—It was addressed to Mr. Stone.

By whom was it written?—By the late Mr. Jackson.

By whom is that other paper written?—Mr. Jackson.

There are two papers?—Yes.

Are they part of the same letter?—They are.

And whom were they written by?—Mr. Jackson.

To Mr. *Walsh.*—Please to look at that address to Mr. Stone, and the body of the letter, contained in two sheets; whose hand-writing do you believe them to be?—Mr. Jackson's.

Isaac Dejoncourt, esq. sworn.—Examined by Mr. *Garrow.*

I believe you are deputy comptroller of the post-office in Dublin?—I am.

Whether you intercepted that letter [No. 25] in the post-office?—I did.

Was it a letter put into the post-office, in the city of Dublin, to be forwarded from thence?—It was.

Isaac Dejoncourt, esq. cross-examined by Mr. Serjeant *Adair.*

You intercepted it in the post-office in Ireland?—Yes.

Of course it never found its way to the gentleman to whom it was addressed in England?—Certainly not.

[No. 25. read.]

"*Dublin, 21st April.*

"Dear sir; Yesterday your letter was delivered to me. I am glad to find that the patterns I sent have reached the persons for

* See his examination on the Trial of Jackson, *ante*, p. 815.

whom they were intended; as, from the silence of the parties, I concluded that the outrider had neglected the delivery of them. I do not see any thing in the late change of fashions, which alters my opinion of the stability of the new institution; particularly as the principal persons who superintend it, I never have been able to detect in the slightest deviation from the line of consistency; the rest have all at times been suspected of sinister motives and tergiversation.

"The state of manufactures in England which your friend drew out, and which you so obligingly gave me, is very just, as far as it relates to England; but the principles of the people with regard to trade, their opinions as to a change to be brought about by industry and co-operating exertion, are so totally different, as to throw all comparison out of the question. I am promised, by an eminent and very sensible manufacturer, a statement of the manufacturing branches here, which will gratify you.

"I shall obey the instructions of your sister-in-law, by not writing to her, which does not, however, preclude me from requesting that when you write, you will remember me in the most affectionate manner to her and Mr. Nicholas. Let them know where I am, and that I am doing every thing in my power to serve Mr. Nicholas, and give him satisfaction in bringing his affairs to the issue he wishes. His friends here have it in agitation to send a person on whom his family and he can depend, to him, with copies of such covenants and leases as will show the readiness of his sister-in-law here to come immediately to terms with him; and I should advise a junction of interest, rather than a tedious chancery suit. I wish you would copy this part of my letter, and send to him; a few days will decide whether the person goes or not; if he should, he will go from me, and the family here, with full powers to treat with Mr. Nicholas, finally settle the terms, and thus put an end to enmity and litigation. I am sure the medium of a third person is all that is wanting to bring the parties perfectly to accord. The sister-in-law is admirably disposed to a reconciliation. I hope this will be effected, as one interview is better than a thousand letters. If the person should go, Mr. Nicholas must receive him as he deserves, and treat him as he will merit. I had written the above during the negotiation with a person to go to Mr. Nicholas. He has this morning, the 24th of April, decided that his private affairs will not permit him. I shall therefore send a statement of the family expectations, and situation here, drawn up by as eminent a pleader as the gentleman who composed the paper in England.

"I shall set out for Cork in a day or two, from which place you shall hear from me; and should you receive any intelligence from or of our friends, I intreat you to communicate it to me, under cover, to John Cokayne, esq. to be left at the post-office, Cork. I wish you would write the first post-day to your sister-in-law, and desire her to inform Mr. Nicholas, that to-morrow I send off two letters for him from his friends here, containing opinions thoroughly considered and well digested by the first counsel here; as such he may show them, and the family may act accordingly. As my time has been wholly employed in collecting them, and as they come from the first and most enlightened sources, let your sister-in-law desire Mr. Nicholas to look out for them as matters of consequence; they contain the real state of the case. I sincerely wish your happiness and that of your family, and am truly your's,

"THOMAS POPKINS."

"Do not fail to communicate to Mr. Nicholas by the means of your sister-in-law, what I have written.

"Mr. Stone."

Inclosed in a cover, directed,

"Messrs. Lawrence and Co. at their coal wharf, Rutland-place, near Blackfriars-bridge, London."

Mr. *John Cokayne* examined by Mr. *Garrow*.

I believe you have been acquainted with Mr. Jackson for many years?—Many years.

When was your intercourse renewed with him the last time?—I think in January, or February, 1794.

Had it been interrupted for any considerable length of time; and by what means?—About the year 1790, or 1791, or it might be 1792—Mr. Jackson left the kingdom on account of some debts, that he had incurred for the Royalty theatre.

Do you know to what part he went?—He went to Paris, I believe, or to France.

He returned to this kingdom about January, or February, 1794?—He returned to England in 1792, upon some business.

He returned, however, for the purpose of this cause finally, in January, or February 1794?—He did.

He came to you in London—I am at liberty to go through the detail of all that Mr. Jackson said, and all that he did, you will understand that.—Had you intercourses with Mr. Jackson, while he continued here in London?—I had.

Where did he reside?—At the Buffalo-tavern, in Bloomsbury-square.

Was that a place of your procuring for him?—It was.

Did you see him frequently?—Hardly two days passed without my seeing him.

You saw him almost daily?—Almost daily.

How long did he continue here?—I should suppose six weeks, or thereabouts—went to Ireland.

He continued at the Buffalo—went to Ireland?—Yes.

Mr. Jackson was, I believe, a clergyman? —He was.

He was a native of Ireland?---I believe so.

Did you understand so from himself?---I did.

From the intercourse that you had with him whilst he was here, which you have described to be almost daily, do you know that he had any commercial concerns which he transacted with any commercial or other perrons in this country?---I do not know of any.

Was he a person publicly seen transacting business in this town, or keeping himself retired and concealed from the view of the public?—Wishing to conceal himself, as he told me, from the view of his creditors.

Did he conduct himself as wishing to conceal himself, or as a man publicly seen by every body?---As a man concealing himself.

Did any thing in the conduct of Mr. Jackson---no matter what---and your knowledge of his business here, lead you to make any communication to any person in his majesty's confidence, to any minister?—It did.

When did you make such communication? —Sometime in March, 1794.

You saw Mr. Pitt upon the subject?---I did.

Mr. *Garrow*.—What passed between Mr. Pitt and you I am not at liberty to ask.

Mr. *Cokayne*.—I wish you were.

I believe I may ask without trespassing upon any rule---Whether you communicated to Mr. Pitt your intention of going abroad, either alone or with any other person?

Mr. *Erskine*.—I object to the question.

Mr. *Attorney General*.—They have subpœnaed Mr. Pitt, and therefore they may call him.

Mr. *Garrow*.—Whilst Mr. Jackson remained here, did you, in fact, direct any letters for him?—Several.

I cannot ask you to whom, but were the letters for a foreign or domestic destination?—Foreign.

Mr. *Erskine*.—That is not evidence.

Mr. *Garrow*.—We will produce the letters to the witness in a moment—after you had seen Mr. Pitt and had had some communication with him, did you go to Ireland, and with whom?—Yes, with Mr. Jackson.

Can you tell us when you arrived at Dublin?—About the 2nd or 3rd of April, I believe.

Cast your eye upon this letter [showing it to the witness], and tell me whether after you arrived in Ireland, you received it by the post? —I do not think I did receive it, but I cannot speak with certainty.

Lord *Kenyon*.—What is this?

Mr. *Attorney General*.—It is a letter I particularly opened, your lordship will hear the particulars of it presently.

Mr. *Garrow*.—Whilst you and Mr. Jackson were in Ireland, were you present at any time with Mr. Jackson in company with a gentleman of the name of Hamilton Rowan?—I was.

Where was Mr. Hamilton Rowan at that time?—In Newgate in the city of Dublin.

Did you read the contents of any of the letters which you addressed for Mr. Jackson when in Dublin to any other place?—One.

Can you point it out, if it is shown you? —I believe I could.

Lord *Kenyon*.—At whose request did you direct that letter?—At Mr. Jackson's request.

Mr. *Garrow*.—Were there any other persons present in Newgate with Hamilton Rowan and Mr. Jackson, besides you?—I was there more than once.

To begin with the first, how early after he arrived there did you go to Newgate to see Mr. Hamilton Rowan?—Mr. Jackson went first of all without me.

Who was present the first time you went? —I believe Mr. Tone.

He is a gentleman of the law in Ireland? —Yes, I heard he was at the bar.

Did you hear any conversation between Mr. Jackson, Hamilton Rowan, and Mr Tone, with respect to Mr. Tone's going from Dublin to any place, to what place, and upon what business?—I heard a proposition from Mr. Rowan and Mr. Jackson, for Mr. Tone to go to France.

For what purpose?—I cannot expressly say for what purpose particularly.

State as nearly as you can, from the conversation at the time between the parties, the nature of the business he was to execute there? —The nature of the business which I could collect from the conversation, was, that Mr. Tone was to go to France, to carry with him some letters from Mr. Rowan or Mr. Jackson, to inform the people of France of the disaffection of the people of Ireland to this constitution and to the government of this kingdom, and by his means to propose to them to give the Irish assistance, to effect an invasion by the French upon Ireland.

Was any thing more stated in that conversation, as to the state of the tempers of the people in Ireland, or the amount of their disaffection to the government?—I cannot repeat the exact conversation, the general tenor of the conversation was such—the general ideas of the parties were such as I have stated.

Do you know whether finally Mr. Tone did accept of that employment, or decline it?—It was proposed to him first, and he in part accepted it.

Did he finally agree to go, or decline it?— He at first partly acceded to it—he was called into the country, and he left undetermined whether he would go or not—in the interim while he was gone from Dublin upon some business of his own, Mr. Jackson thought he had left Dublin abruptly, without particularly saying whether he would or not go, and Dr. Reynolds of Dublin was applied to before Mr. Tone came back. Dr. Reynolds when he was applied to, started at the me-

tion.

[illegible]acles in the way, and [illegible]ewise—Mr. Tone re- [illegible]ntry, and a meeting [illegible]n, Mr. Jackson, and —after stating his ob- t go, and they being e persuasion of Mr. n he acceded to go, rtain time before he ecuniary concerns of pected a considerable e society that he was an Catholic society, at sum, as going be- accomplished, might ing it.

[illegible] so?—It did.

[illegible] think they

[illegible] know- upon know

[illegible] he did go, but he did not [illegible]—at last conversation I can speak with preci- to, he acceded to go, only he desired e to settle the affair I mentioned.

Look at this letter [No. 27,*]—by whom is the outside address written?—By me.

By whom was the inside written?—By Mr. Jackson.

Is there any address now you have opened it?—Yes, "a Monsieur Monsieur Dandibuscaille à Amsterdam."

Whom is that inner direction written by?—By me.

By whose direction did you write that?—By Mr. Jackson's.

There is a cross?—Yes.

Is that a cover within the second?—It is.

Whom is that written by?—I do not know.

Not by you then?—No.

There is written upon that cover a desire to be remembered to somebody, whose writing is that?—Mine—by Mr. Jackson's directions.

Whose hand-writing is what is contained within the body of that cover?—I do not know.

Is it your hand-writing?—It is not.

Is it Mr. Jackson's?—It is not.

To Mr. *Dejoncourt*.—Was that letter put into the General Post-office at Dublin and intercepted?—It was

[No. 27,* read.]

"The situation of England and Ireland is fundamentally different in this.—The gov. of England is national, that of Ireland provincial; the interest of the first is the same with that of the people, of the last directly opposite. The people of Ireland are divided into three sects—the Established Church, the Dissenters, and the Catholics. The first, infinitely the smallest portion, have engrossed besides the whole church patronage, all the honours and profits of the country exclusively, and a very great share of the landed property. They are of course Aristocrats, adverse to any change and decided enemies of the French Revolution. The Dissenters, who are much more numerous, are the most enlightened body of the nation; they are steady republicans, devoted to liberty, and through all the stages of the French Rev. have been enthusiastically attached to it. The Catholics, the great body of the people, are in the lowest degree of ignorance and want, ready for any change, because no change can make them worse. The whole peasantry of Ireland, the most oppressed and wretched in Europe, may be said to be Catholic. They have, within these two years, recd. a great degree of information, and manifested a proportionate degree of discontent by various insurrections, &c. They are a bold, hardy race, and make excellent soldiers. There is no where a higher spirit of aristocracy, than in all the privileged orders;—the clergy and the gentry of Ireland, down to the very lowest; to countervail which there appears now a spirit rising among the people which never existed before, but which is spreading most rapidly, as appears by the defenders as they are called, and other insurgents. If the people of Ireland be 4,500,000, as it seems probable they are, the Established Church may be reckoned at 450,000; the Dissenters at 900,000: the Catholics at 3,150,000. The prejudices of the English nation are adverse to the French, under whatever form of government. It seems idle to suppose the present rancour agst. the French is owing merely to their being republicans; it has been cherished by the manners of four centuries, and aggravated by continual wars. It is morally certain that any invasion of England would unite all ranks, in opposition to the invaders; in Ireland, a conquered, oppressed, and insulted country the name of England and her power is universally odious, save with those who have an interest in maintaining it—a body, however, formidable only from situation and property, but which the first convulsion would level in the dust; on the contrary, the great bulk of the people would be ready to throw off the yoke in this country, if they saw any force sufficiently strong to resort to for defence, until arrangements could be made. The Dissenters are enemies to the English power, from reason and reflexion. The Catholics from a hatred to the English name. In a word, the prejudices of one country are directly adverse of the other, directly favourable to invasion. The government of Ireland is only to be looked upon as a government of force. The moment a superior force appears, it would tumble at once, as being neither founded in the interests, nor in the affections of the people. It may be said the people of Ireland show no political exertion. In the first place public spirit is completely depressed by the recent prosecutions of several. The Convention act—Gunpowder bill, &c. &c. Declarations, therefore, of government, of grand juries, or parliamentary unanimity, all

proceeding from aristocrats, whose interest is adverse to that of the people, and who think such conduct necessary for their own security, are no obstacles—the weight of such men falls in the general welfare, and their own tenantry and dependants would desert and turn against them. The people have no way of expressing their discontent *civiliter*, which is at the same time greatly aggravated by those measures, and they are, on the other hand, in that semi-barbarous situation, which is of all others the best adapted for making war. The spirit of Ireland cannot therefore be calculated from newspaper publications, county meetings, &c. at which the gentry only meet, and speak for themselves; they are so situated that they have but one way left to make their sentiments known, that is, by war. The church establishment and tythes are very severe grievances, and have been the cause of numberless local insurrections; in a word, from reflection, interest, prejudice, the spirit of change, the misery of the great bulk of the nation, and above all, the hatred of the English name, resulting from the tyranny of near seven centuries, there seems little doubt but an invasion would be supported by the people; the militia, the bulk of whom are Catholics, would to a moral certainty, refuse to act, if they saw such a force, as they could look to for support."

In the first Envelope,

"Remember me to Languelot and our friends. ✂"

Second Envelope directed,

"A Monsieur Monsieur Dandibuscaille, à Amsterdam."

Third Envelope directed,

"A Mess. Texier, Angely, et Massac, à Amsterdam."

Lord *Kenyon*.—If sitting some hours longer would bring this trial to an end, we certainly would sit, but I am afraid we shall not bring it to an end.

Mr. Serjeant *Adair*.—It is for me to obey the directions of the Court.

Lord *Kenyon*.—We will sit as long as human nature will hold out; you gentlemen know how long it is likely to last?

Mr. *Attorney General*.—We have still evidence to give, which will take up some time—I wish undoubtedly on the part of the public, to put myself under the direction of the Court.

Lord *Kenyon*.—That direction must proceed from knowing something more of the matter—how much longer is your evidence likely to continue?

Mr. *Attorney General*.—I cannot very accurately state that to your lordship, because it depends a good deal upon what may happen with respect to the manner of treating the evidence on the other side.

Mr. *Erskine*.—The cross-examination of Mr. Cokayne cannot take up much time.—I do not conceive that we can have three questions to put to him.

Mr. *Attorney General*.—Whether their case is likely to be long or not?

Mr. Serjeant *Adair*.—We must call several witnesses, but our evidence will not go to an equal length with that for the crown—because circumstanced as we are, we shall have no written evidence to trouble the Court with.

If your lordship finds it too much for the Court and jury to go through the whole of this very important trial to-day, perhaps your lordship might think in that case, and upon that supposition (about which I have no personal wish at all) that it would be arranging matters most conveniently, if my learned friend closed his evidence for the crown to-day; and that we might be permitted to make our defence to-morrow.

Mr. *Attorney General*.—I am very desirous to do what the Court may think proper—but I cannot undertake to say, in my view of the subject, that his lordship would be kept here less than four hours longer—for it will be necessary for us to compare certain papers that will be produced out of the custody of the prisoner, with certain original letters likewise found in the custody of the prisoner; we have also some witnesses to call from Ireland, that may be important.

Mr. Serjeant *Adair*.—I am perfectly ready to acquiesce in what the Court may think right. I can only say, that the line which the attorney-general at present seems inclined to chalk out, is likely to produce an extreme hardship on the part of the prisoner, because Mr. Attorney-general proposes to leave his evidence to a considerable length still unfinished, and to proceed with that evidence upon a fresh day with the unimpaired and awakened attention of the jury; and we shall be called upon, on the part of the prisoner, at a late hour perhaps, when your lordship and the jury are exhausted with fatigue.

Lord *Kenyon*.—I hope four hours more will not wear out either the strength or spirits of the jury.

Mr. *Erskine*.—We have been indulged with copies of the letters; consequently your lordships sees that if we were to retire when the evidence was over, the time appropriated for rest would be principally employed in looking over these papers, or how shall we be prepared to address the jury?

Lord *Kenyon*.—I know both your abilities well enough to feel no doubt that you are prepared now to make your observations upon any evidence that is already given. We are all desirous to sit as long as we can; but necessity justifies that which it compels; the strength of man is not adequate to this. Lord Mansfield, as little inclined to give way as any man, did give way at a certain hour in the case of lord Pomfret.

One of the Jury.—My lord, we are men of business; we are early risers. If we are to be kept here for four hours longer, our spirits

may be exhausted. I am not a young man. I wish to understand this matter perfectly right; it is a case of life and death: I may be wearied out, and perhaps by-and-by be asleep. I beg pardon for making this observation; but I wish to take care of my own conscience in every particular.

Mr. Serjeant *Adair*.—I do not wish to press too much upon the strength or attention either of the jury or of the Court.

Mr. Justice *Grose*.—Let us go on with this witness, and after he has been examined we will think of it.*

Mr. *Garrow* (to Mr. *Cokayne*).—Look at this paper [No. 27]. By whom was that direction on the outside cover—to Monsieur Chapeaurouge—written?—By me.

Was that written by Mr. Jackson's direction?—It was.

Take off that cover—Is there any thing written upon the next cover?—No, there is a cross.

Was that made by you?—No.

Be so good as open the cover. By whom were the contents written?—This is written by me—"Remember me to Languelot and our friends."

Was that written by Mr. Jackson's desire?—It was.

Was the letter inside that envelope written by Mr. Jackson or you?—No.

Do you know whose writing it is?—I do not.

Mr. *Garrow* to Mr. *Dejoncourt*.—Did you intercept that letter in the same manner as you have already stated?

Mr. *Dejoncour*.—I did.

Mr. *Garrow*.—I do not mean to trouble your lordship to have this read, because it is merely a duplicate of the last letter, but only to take the cover. Was it intercepted at the same time?

Mr. *Dejoncourt*.—It was.

Mr. *Garrow* to Mr. *Cokayne*.—Look at this paper. Did you direct that at the same time?—I did.

[The direction read]—"*To Mess. Chapeaurouge, Merchant, Hamburgh.*"

Mr. *Garrow*.—Did you and Mr. Jackson lodge together at the same house in Dublin?—We did.

Had you daily intercourse with him?—Constantly.

If he had any commercial transactions to negociate there from your intercourse with him, is it probable you might have known it?—I should suppose so.

Was it possible he should have any commercial transactions of any extent to negociate, without your knowing it?—I should think not.

Had he any such that you knew of?—I did not know of any. I think not.

As far as came to your knowledge, had he any business that he transacted there, except with Hamilton Rowan, Mr. Tone, and the other persons that you have named?—I know of no other business. He saw his wife there.

How soon after these letters were intercepted was it that Mr. Jackson was apprehended?—He was apprehended in the latter end of April, I think.

He was afterwards tried for high treason, and you attended as a witness?—I did.

And upon the day on which he was called up for judgment, he died at the bar?—I have heard so. I was not there.

Before you came to England you had, I believe, directed some covers for Mr. Jackson?—Yes.

Had you done so before your interview with Mr. Pitt?—I had.

Had you directed any to Chapeaurouge?—I am pretty sure I had; the name strikes me.

Mr. *John Cokayne* cross-examined by Mr. Serjeant *Adair*.

Have you given, at any time, any written account of your own conduct in this transaction?—I have.

Be so good as to tell me whether that signature [showing the witness a printed paper] is or is not your hand-writing?—It is mine.

Have you any recollection of the contents of this paper?—If you will please to let me read it, I can say.

Mr. Serjeant *Adair*.—I have not the least objection.

Mr. *Cokayne*.—I could wish, if I am to be interrogated as to this paper, that it might be read. I cannot understand your meaning for asking me the question. Do you mean to ask me merely whether this is my signature?—If you mean to ask me abstractedly to any particular part of this, I shall trust that the whole may be read to the Court.

Mr. Serjeant *Adair*.—You may do that afterwards. Is this a true account?—I certainly avow every part of it.

Mr. Serjeant *Adair*.—I do not wish to entrap you.

Mr. *Cokayne*.—I do not believe you do.

Mr. *Attorney General*—If it becomes necessary, you shall be called again.

Mr. Serjeant *Adair*.—You have been asked whether Mr. Jackson had any commercial connexions in Ireland? I would ask you whether you do not know that he wanted to establish mercantile connexions in England?—He told me he did.

You were intimate with Mr. Jackson?—Very.

You being the intimate friend of Mr. Jackson, did you, before he left London, know the object of his journey to Ireland, which afterwards appeared upon his trial there?—I did not.

Then notwithstanding your intimacy with him in London, and your former intimacy, you did not, before he left London, know that purpose of his journey to Ireland for

* See the note at p. 1295.

which he was afterwards tried and convicted? —I did not.

Mr. *John Cokayne* re-examined by Mr. *Garrow.*

Be so good as to state to my lord and the jury what the nature of those commercial transactions were which he wished to establish in England—what the nature of the commodities were, and for the supply of whom.—After Mr. Jackson had been in England some time, he asked me, as his friend who was continually in the habit of being with him, to direct several letters for him, some of which are the names that have now been read; and he stated as a pretext for asking me so to do, that his debts were so heavy here, and which I knew, that if his hand-writing was known, he should be locked up in a gaol for ever. Upon that principle I implicitly directed several letters for him, without the knowledge of the contents of any one letter that I directed for him in England, or ever asking him the contents; for we were in too strict a habit of friendship. One day, in conversation with Mr. Jackson, he told me, that what he came to England for, was not likely to succeed, and that he had some thoughts of going to Ireland. He asked me if I knew any merchants or mercantile people in this kingdom whom he could apply to, and obtain provisions and other necessary things that he could supply the French with? He said, he had an unlimited order for any quantity that could be got; that he should have a very large commission for obtaining it; that he would be enabled thereby to pay me what he owed me; that I should have a very handsome commission likewise out of it; that he would venture to say a thousand a year would be but a trifle, or not an equivalent to what I might get, if I could assist him in the providing these articles. He said he knew I had sustained very heavy losses in my profession, and that he should have an opportunity of taking me from the fatigues of business, and put me into an independent state. I answered him, that my connexions in life had always been on the west side of Temple Bar; that I had made little or no mercantile connexions; that I knew no merchants, and that I could not assist him in any such business. Thus, I think, ended the conversation; but it did not strike my mind, that I had incautiously, and at the desire of him as a friend, brought myself into a situation———

You had before this, you said, in the very great intimacy and friendship that subsisted between you, addressed letters for him, without asking or knowing their contents?—I had.

After this communication you were going to tell us the impression that was made upon your mind. Was it this that led you to make a communication to the minister?—It was.

If I did not misunderstand you, you were well acquainted with Mr. Jackson's pecuniary circumstances; *he was much indebted to you among others?*—He was.

Had he any funds of his own, by which to establish any mercantile connexions in this country?—Not that I know of.—If I am not at liberty to say what impression it had upon my mind, may I go on to state what I did in pursuance of that conversation?

Mr. *Garrow.*—In short you communicated it to the minister, and afterwards accompanied Mr. Jackson to Ireland?—I communicated it to the minister in the presence of Mr. Estcourt, who went with me to the minister.

During the whole friendly intercourse and correspondence between you and Mr. Jackson, did it ever happen that you corresponded with him under a feigned name, or received letters from him under a feigned name?—No, we were always together.

Mr. Serjeant *Adair.*—You were never absent from each other after he came to England?—Not for a day.

Mr. *Garrow.*—You were intimate many years before?—Yes.

Mr. *Attorney General.*—If your lordship pleases, I will just call a witness to prove the hand-writing of Mr. Stone to a letter written in the name of Enots, to Popkins.

Mr. *Attorney General* to Mr. *Dejoncourt.*—Did you stop that letter [No. 28] in the post office in Ireland?—I did.

(To Mr. *Longrigge,*)—Look at that first cover which is signed W. Enots. Whose hand-writing is that?—Mr. William Stone's.

[No. 28, read]

"My dear friend,—I have received your different letters, but could not answer them sooner for want of a proper opportunity. All your friends here are very glad to find you are safe arrived, after your long and disagreeable jaunt through Wales. They also rejoice to hear that Mrs. Harris is likely to do well in her business; they are sensible that the funds she sets up with being but trifling, she cannot expect to do great matters in the beginning, but they are so convinced of her industry and cleverness, that they are willing to assist her as far as they are able; they, therefore, will take the first opportunity that offers to send her such a sortment of millinery goods as will enable her to set up a very handsome shop; in the mean time, she must make friends, and secure as many good customers as she can.—This was my advice to her when last I saw her, and her friends request that I should here repeat it. The two friends she mentions have not reached this place yet; when they do you may depend upon my showing them all the civility in my power; I shall take care to introduce them to some very good company of this neighbourhood. As soon as Mrs. Harris has prepared every thing for her new establishment in London, I think she would do well to take a trip to Dublin, and strive to raise there the little money that's due to her. Not one of the letters mentioned by her, as directed from London to Mr. Horn, is come to hand; yet this

mode of conveyance must not be neglected: but let her [illegible] e time write to Mr. C——— directly. Adieu. My dear frie nd that lady all possible hap s, most affectionately, N. M."

"P. S. Should M rris go to Dublin, I beg she will prevail o ounger brother Robert to break off at leng foolish partnership he has formed with a w who is constantly imposing on him and keeping all the profits to himself. Sho l my brother persist in his obstinacy I shall have nothing to say to him, but leave him to smart for his folly; but if he follows my advice, I will become his partner, send him goods, and supply him with whatever credit he wants to carry on business on his own bottom."

Addressed,
"Mr. Johnson, at Messrs. Lawrence and Co. Rutland Place, Thames-street, London,"

The above letter was enclosed in a cover in which was written:

"I recd. the inclosed to-day. I have not heard since I last wrote to you. I am Yours truly, W. Enots.

"April 22d. 1794.

Addressed, "Mr. Thomas Popkins."

Inclosed in another cover
Addressed,
"John Cokayne, Esq. Hyde's Coffee House, Dame-street, Dublin."

Mr. *Isaac Dejoncourt*, cross-examined by Mr. Serjeant *Adair*.

Did you open the cover, or whom did you deliver it to when you stopped it?—I opened the cover.

Did you find the letter, inclosed in the inside, signed W. Enots, sealed or open?—It was sealed with a second wafer; it appeared to have been sealed with a red wafer first, and afterwards with a wafer of another colour.—The first cover was directed to John Cokayne, esq. Hyde's Coffee-house, Dame-street, Dublin: the second cover was addressed to Thomas Popkins.

It being now near eleven o'clock at night, four officers were sworn, in the usual form, to attend the Jury, who slept at the Swan-tavern, in Bridge-street, and the Court adjourned to to-morrow morning, nine o'clock.*

Court of King's-Bench.—Friday, January the 29th, 1796.

PRESENT,

Lord Kenyon, Chief Justice; Mr Justice Ashhurst; Mr. Justice Grose; Mr. Justice Lawrence.

William Stone set to the bar.

Mr. *Thomas Maclean* called in again.

Mr. *Law*.—Look at those papers; were they found in the custody of William Stone at the time his papers were seized?—I found this letter [No. 37] and these three papers, [No. 58,] at Mr. Stone's house at Old Ford.

[No. 37, read.]

"*Downing-street, April* 16, 1794.

Sir,—I have received your letter of yesterday, and return inclosed the letters and extracts which you sent me on the 8th. I am obliged to you for having communicated such information as you thought might be and have nothing further to add on ject of these papers. I am, sir, your t servant, W. Pitt."
Stone, esq."

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tified what it compelled. And that it was left to modern times to bring forwa... cases of such extraordinary length, yet no rule could compel the Court to continue longer sitting than their natural powers would enable them to do the business of it. The jury retired to an adjoining tavern where accommodations were prepared for them, and the bailiffs were sworn *well and truly to keep the jury, and neither to speak to them themselves, nor suffer any other person to speak to them touching any matter relative to this trial.*

"The entry of the adjournment was in this form:—

"*Thursday* next after fifteen days of St. Hilary in the 36th year, &c. Forasmuch as it appears to the Court here from the length of time which has been already occupied by the trial of the issue joined upon this indictment, and the farther time which will be necessarily occupied by the same, that justice cannot be done if this Court proceed without intermission upon the said trial; it is ordered that the jury impanelled and sworn to try the said issue have leave to withdraw from the bar of this court, being well and truly kept by six bailiffs duly sworn not to permit any person to speak to them touching any matter relative to the trial of this issue; and that the same jury shall again come to the bar of this court on the morrow at nine o'clock in the forenoon. And it is further ordered that the prisoner be again brought to the bar of this court at that time.

"By the Court."

6 T. R. 530, 531.

See the trial of Thomas Hardy, *ante*, Vol. 24, pp. 414 *et seq* of John Horne Tooke pp. 1

* "The Court having sat on the first day of the trial from nine o'clock in the morning till ten o'clock at night without any interruption or refreshment, and the attorney-general stating that his evidence would occupy four hours more, and some of the jury being very much exhausted and incapable as they declared of keeping up their attention much longer, the Court adjourned till nine o'clock the next morning; lord Kenyon observing that neces-

Mr. *Attorney General.*—I shall proceed to call a person to show how these extracts were made; then I shall produce the original letters found in the possession of Mr. Stone, for the purpose of comparing them with the extracts, to show what information the extracts gave, and what information the letters gave.

Mr. *Thomas Hill* sworn.—Examined by Mr. *Attorney General.*

Do you know whose hand-writing these extracts are?—They are mine.

By whose order did you make them?—Mr. Stone's.

For what purpose did you make them?—I cannot tell.

Did you make these extracts from any, and what original papers?—From manuscripts Mr. Stone gave me.

Manuscript extracts?—Yes.

Lord *Kenyon.*—You took a copy of them?—Yes.

Mr. *Attorney General.*—Look at the top, you will see the word "Extracts;" whose hand-writing is that?—It appears to me to be Mr. William Stone's.

Mr. *Attorney General.*—I now propose to read these extracts. I beg your lordship's particular attention to those passages in which the words "the French" occur. I will produce presently the original letters found upon Mr. Stone, and you will then see that wherever the words "*the French*" are put in the extract, they are substituted for the word "*we*" in the original. In the extract of the letter, of the 24th of October, it is, "my letter, was put on board a boat that was then going to England." In the original, "my letter was put with one I sent to lord Lauderdale, who conveyed it to Mr. Fox at Newmarket, on board a boat that was then going to England."

[No. 38, read.]

"*Paris, 30th April*, 1792.

"Extracts.

"Whatever may be the result of our determinations, we have one thing very much on our side, and that is, that the person I am most intimate with in France is Mr. François, whom you will recollect having seen at my house, and who is one of the most enlightened members of the National Assembly; he is the president of the Committee of Commerce; and has promised me, that whatever plan I have, he will procure me every advantage and protection. I dined yesterday with the mayor, who has also promised to give every sort of information that lies within his knowledge and province. We shall have no competitors; and Englishmen have been here profiting by the incapacity of the French."

"*August 27th*, 1792.

"The assembly did a very silly and contemptible thing yesterday, in admitting Mr. Wilberforce, David Williams, and Clarkson, to the rank of citizenship. They are wretchedly informed respecting characters in England; and from this sample they will get themselves laughed at by you: but these men are accustomed to act with much precipitation, and also with much presumption. One of them dined with me yesterday, and I represented to him one of their choice rejecting with indignation from his connexions all connexion with them; another, as a man of no character but a bad one, in a very low rank, either as to political or literary fame, and avowed by no one; and another as scarcely known in politics at all, and what he had were in a line different from their own."

"*Paris, August 30th*, 1792.

"I wrote to you on the 16th. I know not by what accident my letter could not have reached you, unless the inspectors at the post-office here found that it contained matter not quite so proper to be publicly known at that time, though it has since been published by order of the assembly; my informant was one of the Executive council; I am sorry for nothing but that I fear to have mentioned to you his name."

"*Paris, Sept. 27th*, 1792.

"I am just returned from Orleans to Paris, making the sacrifice of a little absence to fear and apprehension. We have been latterly at the chateau of Mons. Laborde, the banker. As every cause of fear is now removed, I shall immediately proceed with the purchase of the manufactory, at least to the accomplishment of the business in some sort or other."

"*1 o'clock, Hall of the Convention, 2d Octo.*

"This moment the news is arrived that the Prussians have raised their camp, and are retiring; they have left 5,000 sick in their hospitals, and have lost between 2 and 300 men. The French army is in pursuit, and Custine is before them with 40,000, so that there is no possibility they can escape."

"*Paris, October 24th*, 1792.

"The letter I sent you of the retreat of the Prussians was, I am certain, the only information of the event to be met with in England, for the news arrived at the assembly at ½ past 12: I heard it from a deputy: a minute after I ran into the box, and spoke with one of the secretaries; and at one the post went off to Calais; and my letter was put on board a boat that was then going to England. In any future affairs of this sort, you may depend on the authenticity of the intelligence, for I have access to the secretary's table, and the dispatches into the provinces thro' which you receive my letters: surely it is worthy the attention of government to have some one here to give them information; but it has been so deceived that I do not wonder at its ignorance in this respect." "In my letter to the Morning Chronicle I have unfortunately betrayed a secret which I ought to have concealed; at Paris it is universally believed that the French are pursuing the Prussians, mak-

ing prisoners, and killing them at every step—No such thing: they are waiting on them with as much ceremony as if they were their allies, taking leave after assisting them in a victory; and not a single cannon has been fired since the beginning of the retreat. I mention also certain letters, which neither the commissioners nor the generals choose to lay before the assembly. I had, however, their leave to mention the affair in England, and if Perry prints my letter it will be only a little premature, for they cannot be long concealed. We stand yet on a pinnacle with respect to French opinion; why do we not profit by it? The Marsellois are come to Paris, as a guard to the Convention, to chastise the insolence of the Parisians, which is become less necessary since the accusation of that wretch Marat, whose wickedness is as incomprehensible as it is great; for it is impossible to know what motives guide him, as his character in other respects is far from being a bad one. I ran some risk from the manner in which I spoke of them at the time they were in power. I left Paris for a fortnight, and changed my dwelling on my return; but now there is not the shadow of an apprehension, for some parts of those letters are translated into French, and published in their journals."

"*Paris, Nov. 26th*, 1792.

"Here's Frost & ——— come over with an address; I have taken care to inform the leaders with the leading features of these gentlemen. I was appointed to present one myself to-morrow, but I shall decline it from a variety of motives. I have prevented Fox and Sheridan's citizenship, and my own, and I hope every one's else at this time."

"*Paris, Nov. 27th*, 1792.

"I believe that I mentioned to you that we had a dinner on Sunday se'nnight to celebrate the French victories, and that an address was to be presented to the assembly: that is to be done this morning: I was chosen president and orator, but I have declined both."

"*Paris, March 7th*, 1793.

"I have recd. a letter from Mr. Wilberforce, in which he tells me he has shown my letters to his majesty's ministers; and he refers me to Mr. Thornton's letter, which I have not yet received; nor yours, sent under cover through the president of the convention."

"I am glad to hear that something like pacific dispositions yet appear; it is not yet too late to remedy those mighty evils which are bursting forth on every side; there would be little difficulty here, if any fair and proper terms could be offered. You see the territory of France is increasing every day; this is an evil of some magnitude; and the more it increases, the greater will be the difficulty to come to accommodation.

"Sabodiniere is arrived here, driven away by the alien bill; he tells me the English are to be recalled, or their property confiscated; of this I have no apprehension: but if any law of great severity should be enacted, I shall so far obey it as to retire into Switzerland to find Robert Fitzgerald; but I shall not abandon the business we have undertaken, which I postpone till I in some way or other hear from you."

"*March 18th.*

"Of the spirit of this people you can have little idea at a distance; you may judge of their facility of raising men by the spirit of Paris; its quota is 12,300. The sections, I am told, have already enrolled 40,000, and those not the lowest of the people. A great force will be sent to the Cape of Good Hope, which will proceed to the East Indies. At home a descent will be made on England, with a force that will be almost irresistible, but in what manner I have not yet learnt: I was applied to by general Dillon on the subject, but I declined any interference. You must be careful not to mention these circumstances, especially as coming from me."

Mr. *Attorney General*.—Your lordship observes, that that letter of Mr. Pitt's which has been read, refers to extracts and a letter.—Mr. Pitt is subpœnaed by Mr. Stone, to produce that letter to which Mr. Pitt refers. We proceed now to read the letters, out of which these extracts are taken.

Mr. *Garrow*.—Your lordship will observe, that, of the parts which are extracted, all that were sent to Mr. Pitt are marked within brackets.

Mr. Serjeant *Adair*.—The attorney-general cannot make any thing evidence, I submit, from the mere circumstance of our having subpœnaed any witness; the court at present have no cognizance of that at all.

Lord *Kenyon*.—At present, I hope, we have received nothing but what is evidence; these extracts were proved, before they were read, by Thomas Hill, to have been copied by him, by the direction of the prisoner at the bar; and that the word Extract, which stands at the top of each paper, is of the hand-writing of the prisoner.

Mr. Serjeant *Adair*.—But the attorney-general states to the Court, as an auxiliary fact, that we have subpœnaed some gentleman, to prove some letter or other.

Lord *Kenyon*.—He said so, but he is producing no evidence in consequence of that assertion. If there is any thing improper it is fit to interrupt, but I have not seen any thing of that sort.

Mr. Serjeant *Adair*.—If it had not occurred to me to be so, I should not have spoken.

Lord *Kenyon*.—What is the objection?

Mr. Serjeant *Adair*.—It is stated to the Court, in this stage of the business, that we have subpœnaed some gentleman, to prove some letter or other; whether we have or not, is a fact totally immaterial to the Crown.

Lord Kenyon.—It explains a fact that is

these extracts were sent with some letter; the attorney-general has produced the extracts, and not the letter; he is accounting for not producing the letter.

Mr. Serjeant *Adair*.—The defendant having subpœnaed Mr. Pitt, cannot account for their not producing that letter.

Lord *Kenyon*.—If you please you will argue that point, and show he ought to produce it, and then we will decide that.

Mr. *Attorney General* to Mr. *Maclean*.—Did you find that letter [No. 39] at Mr. Stone's, at Old Ford?—I did.

Lord *Kenyon*.—It will facilitate our taking notes, if there are any letters which Maclean is to prove that he found at Old Ford, if he were now to ascertain them.

Mr. *Attorney General*.—I am about proving the letters of the 24th of October, and the 27th of November, from which these extracts were made; the observations upon the others are not very important.

Mr. *Maclean*.—I found these letters [No. 39 and No. 40] in the possession of Mr. Stone, at Old Ford.

Mr. *Attorney General*.—Where the extract differs from the letter, the original in that part of the letter is altered with a pencil.—There are many passages which are taken no notice of in the extracts.

[No. 39, read.]

"*Hotel de Grange Batteliere*
"*24th Oct.* 1792, 1 *Y. of F. R.*

"Dear brother; I inclose you the assignment witnessed by lord Lauderdale, and Dr. Moore, with a note to Mr. W. M. and an order to Mr. Cooper, which I should have sent earlier; that is a day or two since, for I have not been long returned, could I have found two Englishmen together.—I am very glad that the sale proved so advantageous, and am much obliged to you, for the care you have taken, and are about to take with the books and pictures.—The linen with my papers, you are so kind as to take to Old Ford also, I shall send for none of all this, till I have arranged all the affairs that concern the manufactory, which are now in train; when I have some thoughts, of buying one of those Emigrants houses on the side of the city, where our business will be carried on, as there is no doubt of these houses being sold very cheap, and as national property, not to be paid for under 12 years. But this is an after consideration, as all obstacles are now removed. No fear of an enemy to apprehend; and the camp which was to extend on this side of Paris to Charenton, on the heights of which, which is precisely our place, batteries were to be erected, and this is now all over, it having been determined a few days ago that all labours should cease. I shall proceed immediately to the execution of our project; but before I finally decide, I wish to have all possible information from you, and Mr. Oliver; if in the space of these three months any thing has arisen which can give farther light on the subject; if Cruikshank is there; and what is meant to be done in our farther arrangement concerning him. I have been cautious respecting the importing of Sal. Amm. from England, because I would not awaken the slightest suspicions, and have not therefore offered even the Sal. Amm. we have here to sale; whatever, therefore, concerns the business, I can receive from you before any final settlement takes place, as it demands at least 15 days: and I wish on this point you would give me any hints that you think necessary. I have engaged a very honest man as a lawyer in the business, for the expense is but trifling, and there is a great deal of knavery on the other side.

"You will have received from Verdun an immense packet of information, which you will have distributed according to the addresses; that to Perry contains an epitome of the campaign, and our present situation. You will have received also a letter addressed to Miss Williams, which was, by the blunder of Mr. Rose, sent to you also; which you may open if you please, as it contains, so far as I recollect, only other views of the war. I shall continue to send to you Perry's letters, if I have time in future to write to him; but it is necessary that he should have them in the day, as a day of earlier intelligence is to him of some importance. The letter I sent you of the retreat of the Prussians was, I am certain, the only information of the event to be met with in London, for the news arrived at the Assembly at half past 12; I heard it [in the street]* from a deputy; a minute after I ran into the box [which I have there] and spoke with one of the secretaries, and at one the post went off to Calais, and my letter was put [with one I sent to lord Lauderdale, who conveyed it to Fox at Newmarket] on board a boat that was then going to England. In any future affairs of this sort you may depend on the authenticity of the intelligence, for I have the command of the secretaries table, and the dispatches into the provinces of the Convention through which you receive my letters. Surely it is worthy the attention of government to have some one here to give them information; but it has been so deceived, that I do not wonder at its folly† in this respect; [I believe it will be more puzzled what part it shall take in future.]

"In my letter to Perry I have unfortunately betrayed a secret which I ought to have concealed. At Paris it is universally believed that we‡ are pursuing the Prussians, making prisoners, and killing them at every step we‡ take—No such thing: we‡ are waiting on them

* The words inclosed with brackets were struck out with a pencil.

† Folly *struck out*, ignorance *written over it with a pencil*.

‡ We *struck out*, the French written over it.

‡ We struck out, they written over it.

with as much ceremony as if they were our* allies taking leave after assisting us† in a victory, and not a single cannon has been fired since the beginning of the retreat. I will not assert it as a fact, *but I believe it most firmly, that the only condition accepted by Dumourier was, that the Royal family should not be put to death; whilst on our part it was insisted, that Prussia should immediately on its leaving the territory of France abandon the house of Austria, and even form an alliance with us, or submit the army in toto to be prisoners to the arms of the republic.* If this be not the present state of affairs I never was more deceived; and all the conversations I had with the generals, with the commissioners of the Convention, &c. &c. lead me to this belief: nay, more, if this be not the case the generals have betrayed the public cause; and I fear I have betrayed the generals, for I mention certain letters to Perry which neither the commissioners nor the generals [dare or] choose to lay before the Assembly: I had, however, their leave to mention the affair in England; and if Perry prints my letter it will be only a little premature, for it cannot be long concealed. Before I close this part of my letter, I would add in confirmation of my opinion, *that Prussia will be the ally of France; the news we have received, that the empress of Russia is in concert with the emperor to take Silesia—so that the king of Prussia will be the double dupe. You see also, that, if this be true, we, by our treaty, are drawn in to his support: what then ought to be our conduct in the present instance?—Instead of becoming through Prussia, by such an obliquity, the ally of France, why not be a principal, and in the present case a generous one.* We stand yet on a pinnacle with respect to French opinion—why do we not profit of it? *but, if we do, is there not danger that both England and Prussia become republics also?*

"I was a whole week in returning home, which I did exactly through the very march of the enemy, and found the country in such a state of inconvenience, bad roads, broken bridges, &c. rather than devastation, that we could not move sometimes more than a post, which is 5 miles English, in three hours and half; but it was impossible to miss our way, for had we been blind our sense of smelling would have directed us, for the carcases of horses or men presented themselves literally at every step we took; in one day's journey, which did not consist of but between 20 and 30 miles, we counted, of horses only, at least 2,000; and the arms and legs of men obtruded themselves whenever we took the trouble of looking into the ditches, where they lay but half-buried. There is no complaint of the Prussians any where, but the Hessians, the Austrians, and the emigrants, were every where robbers; the last added cruelty to their depredations, and they now suffer not only in their execution here, for there were six young gentlemen beheaded yesterday in Paris, but all the miseries that human beings can suffer where they are assembled, beyond the frontiers. Another law was passed against them yesterday, viz. that those who are, and have been emigrants, without being in arms, shall be banished France for ever, and their estates confiscated: this has the appearance of harshness, but it is well known, that those who have not taken arms have been of the two the most dangerous; and the nation is mounted so high at present that she fears nothing. *We talk of an expedition into Spain; and as we have not found it necessary to fire one cannon in taking Savoy, Nice, the sea-coast country of the king of Sardinia, and probably by this time the island of Sardinia itself; with Genoa, by Montesquieu's army, we shall be at full liberty to proceed to Rome, and offer liberty to the Italians;* for there is no mischief of which these Marseillois are not capable; and their present whim is, to bring the pope and the cardinals prisoners to Paris.—It was the Marsellois who executed the revolution of the 10th August; the Marseillois who have chiefly at their own expense made this expedition against Nice; it is these gentlemen who are going in search of the Pope, whilst part of them, [the Marseillois,*] are come to Paris, as a guard to the Convention, to chastise the insolence of the Parisians, which is become less necessary since the decree of accusation is passed against that wretch Marat, whose wickedness is as incomprehensible as it is great, for it is impossible to know what motives guide him, as his character in other respects is far from being a bad one. I run some little risk from the manner in which I spoke of them at the time they were in power, and so did many others, but it was necessary at that time for those who did not wish to see the public affairs go to ruin to stand forth and oppose their progress. I left Paris for a fortnight, and changed my dwelling on my return, but now there is not the shadow of an apprehension, for some parts of those letters, if not the whole, are translated into French and published in their Journals. If you have those papers by you pray keep them, and see how my predictions will turn out. If you should chance to see Dr. Priestly, tell him I have reced. his letter, which I will answer after some little consideration; it is neither Mr. Francois, nor even Rabaut, that should be the redacteurs of such a plan, for reasons I will inform the Dr. I should recommend such a man as La Source, who is a Protestant minister, and not the worse for being an Unitarian; but of this more at another time. We join in our love and remembrances, &c. yours, affectionately,

"I. H. STONE."

Mr. *Attorney General*.—Mr. Dundas, who your lordship knows is very fully engaged with

* Our *struck out*, their written over it.

† Us *struck out*, them written over it.

* Inserted in pencil.

public business, is here, and is, on that account, very desirous, if he is to be examined, that he may be examined now.—The only question I have to put to him is, whether any applications were made to him by Mr. Stone, or any person on his account, in consequence of the advice your lordship heard yesterday, was given him.

Mr. Serjeant *Adair*.—There certainly was not. You need not trouble Mr. Dundas to prove that.

[No. 40, read.]

"*Paris, 27th Nov.* 1792.

"Dear brother; I believe that I mentioned to you, that on Sunday sennight, we had a dinner to celebrate the French victories, &c; and that an address was to be presented to the Assembly—that is to be done this morning—I was chosen president, orator, &c. but I have declined both, for the reason that you hint at, and for others also. Yesterday I dined at sir Robert Smith's, with Kersaint, a leading man in the Assembly—he purposes, after the address has been presented, to make comments on the fraternity we offer, and to move for some more substantial mark of the wishes of the French, towards a more friendly intercourse, by offering to join in the civilization of Africa, in the mode which we have already determined on in the settlement of Sierra Leone.—He observes, that as this establishment is an act of the people and not of government—as it is undertaken from motives of humanity, and of benefit to the human race, no jealousies can arise, and no suspicions of encroachment, since the French would adopt your plan, suffer it to be conducted under your auspices—sharing equally in the expense and, if necessary, providing more force at a much cheaper rate than it is possible to afford from England. He had advised with me on the subject; but I am so totally ignorant of the situation of the colony, and of the disposition of the proprietors, that I could give no answer to his observations—it appears to me, on the whole, an advantageous offer for the society, and may tend to farther its views; so far as its views are confined to the abolition of the slave trade, and the civilization of the inhabitants. If it be a good that this trade be abolished, and that Africa be civilized, the power that will be offered if the Assembly concede, may be immense;—and, probably, in proportion to the extent of the civilization may be the extent of the profits, regarding the affair in a view more near and interesting to our mercantile feelings.

"I give you this earliest information that you may, by whatever means you think proper, advise with any person, Mr. Thornton, or some other more conversant on the subject, than he probably is, what the effect of such a junction would be; and if it should be found highly advantageous to the society, supposing that the French resolve on it, would it not be prudent to speculate on a few shares, since they may arise to a considerable premium? Kersaint informs me that we have suffered some disasters there.—I have heard of none; but if such should be the case, shares may be low, I will join with you in the profit or the loss, and so far as information can give any advantage, I can supply it from hence better than any other, as if such a junction or scheme takes place, I should be more in the secret than any one else. It is too much yet in embrio to come to any determination, but you may prepare, by previous information, to take your advantages, and I will be obliged to you to give me immediately, whatever information you can from the office of the society respecting its affairs; and if Mr. Thornton should think well of Kersaint's proposition, he will be able to order you all that shall be necessary on the subject; if I take some trouble in this business it may pay well, and not hinder the other.

"I will write you to-morrow, if Kersaint makes his motion, and what success it has—if he does not, and if such a junction should be thought serviceable, by giving him a few documents, he will be ready at any time, as he has had the project for some time in his head. I would not wish you, therefore, to delay a post if you can help it—I have mentioned, that as the establishment is no act of government, but of a society of the people only, no umbrage can be taken, that another society in France, should on similar motives of humanity and policy, join in the undertaking. The difference probably would be that the society here would receive the most effective support from the executive power, to carry any plan of humanity into execution—what probably we could not procure from the English government, unless at a very heavy expense.

"We are much in the same state of suspense and anxiety here, respecting the intentions of the English, and what is going on there, as you represent yourselves to have been, respecting Dumourier, of whose progress through Brussels towards Liege, of which he is now in possession, you are by this time informed. Neither Austrians or Prussians can stand against us; and it is impossible to know when we shall say, let us go no further. *Our anxiety arises about Holland—we find Auckland's letter very silly, and such as no Dutchman can help resenting, unless he be a very slave—though it is determined to open the Scheld, if the Brabanters wish it—yet it is determined to keep clear of any interference in the domestic affairs of Holland; and though the French have declared that any people, wishing to throw off the yoke of slavery, shall find in them allies and assistants—no section of that people, either in towns or districts, can be paid any attention to; this, Kersaint tells me, was resolved on in the diplomatic committee yesterday, and is, therefore, not yet made public, and the occasion of it was, because Maestricht and Wych, two fortified towns, remote from*

Holland, but belonging to it, with a territory adjacent, have sent their wishes of affiliation with the provinces already conquered or released, so that we shall avoid giving any offence, if possible, to England; and though it is likely that an insurrection will soon take place in Holland, as there are no Prussians now to prevent, they will be able to effect all they wish, without any of our assistance. This is the time for them indeed to strike the blow.

"I hope, that by this time you have settled something finally with Oliver, though he advises me not to hasten the purchase, as little can be done till spring. I mentioned to you that I had written to Dr. C. about Dr. H. of course you will advise together.

"I have now taken a part of a house which I must furnish—I will be obliged to you to send over immediately all my linen, by the waggon which goes from Piccadilly; and will thank you to let me know, or desire Mary to write, what other things I have that can be sent—such as plate, china, &c. Part of the furniture in the house I take at an appraisement. My books, part, at least, can come by a Rouen trader; the pictures must remain with you. I will send to London, and buy a bill for as much as I shall want, as it can be got there at least 5 per cent cheaper than here, and without any commission. If in the course of business any heavy goods, such as iron, &c. lead, &c. are sent from London, specific agreements must be made for landing them at Paris, for Miss Williams has paid near 25*l.* for two ton of goods, or, I believe, not above one ton, and this for want of taking sufficient caution in London. I paid also half the value of the Sal. Ammon. for freight and duty, indeed, which I have not yet disposed of; and I mention this now, lest it may escape me when it would be necessary to take the caution.

"We have no news of any importance. *The assembly decreed, yesterday, that Savoy should form the 84th department, under the name of Mont Blanc; and it is supposed that the fleet, or army rather, is by this time at Rome; Naples, and Sicily fall of course—the greatest consternation prevails throughout Germany, though the general revolution that was expected will not yet take place.*

"I shall write in continuation respecting Sierra Leone, to-morrow, if any thing occurs.

Yours most affectly. I. H. Stone.

"Mr. Stone,
"Rutland Place, Thames Street."

Mr. *Attorney General*.—The extract of this letter is extremely short, as given in evidence, and it is an extract of part of the first sentence.

Your lordship will recollect that in the course of yesterday I intimated that there might be reasons which made it difficult for me to produce a letter on the part of the prosecution. I have no difficulty in saying that that letter was understood to be written in confidence, in consequence of which it could not be brought forward, unless that confidence was withdrawn; I am now enabled to offer to your lordship the letter of Mr. Stone the prisoner, which is dated the 8th of April 1798, it is addressed to Mr. Pitt, and your lordship will find from it I think, that the extracts are extracts of letters of which the originals were not produced—your lordship will find from the introduction of it, that it is obvious that Mr. Pitt had expressed himself not satisfied with the general information which was given; he then enters into somewhat more of particular information, more expressly with respect to a proposition that had been communicated by his brother when in England, as to a descent near the metropolis, and a descent in the North, with a view to destroy the collieries; and then he expressly undertakes, that if by any means he has any further information, he will most assuredly immediately communicate it.

Mr. Serjeant *Adair*.—We release Mr Pitt from that confidence.

Mr. *Thomas Hill* called.

Mr. *Attorney General*.—Look at that letter, [No. 35]?—This appears to be Mr. William Stone's hand-writing.

[No. 35, read.]

"Sir;—Since I had the honour of waiting on you, reflecting on the observation you made of my brother's information being very general, it has occurred to me to be proper to relate a conversation I had with him when he was in England, on the business of the Sierra Leone colony, and what followed in consequence. He then spoke of different plans which he had heard hinted at, in case a rupture with this country should take place, and the manner in which they purposed to effect them, but as there were then hopes, that no such event would happen, no further notice was taken of it, otherwise, than that he should certainly inform me from time to time of what came to his knowledge.

"Soon after his return, the probability of hostilities became more apparent; and he then wrote, that he could not by the post write more particularly than, that it was highly probably what he had told me would be attempted. I immediately communicated this letter to one of the Bank Directors, and also informed him what those plans were; I also gave the information to a gentleman whom I supposed to be in habits of communication with administration, and gave him the letter with no other restriction, than that he was to make use of it confidentially: however, on receiving the information again in his letter of the 18th ult. I thought it incumbent on me to communicate it immediately myself.

"One of these plans was, to attempt a descent on this country, at the same time, in two different places, the one as near to the metropolis as possible, making that the sole object; and the other, in the North, with a

view to destroy the collieries, considering them as a most important branch of trade, and as the greatest nursery for seamen. As those were then their ideas, 'tis probable the same may now engage them, if the plan is persisted in.

"If by any means I have further information, I shall most assuredly immediately communicate it; I have, sir, independent of other considerations, too great a stake in the commerce of this country, to be indifferent as to its welfare—(I may presume the giving employ to seldom less than ten thousand tons of shipping, and contributing annually fifty thousand pounds, to the customs, in one branch of trade, and that the produce of this country (coals), will entitle me to say thus much), and certainly should not for a moment withhold any circumstance I thought essential.

"As you, sir, expressed your readiness of attending to any information which might tend more effectually to remove the prejudice which seemed to obtain in your mind, on my brother's conduct in Paris; I have taken leave to enclose to you some of his letters, which will show the real cause of his residing there; and also extracts from some of his other letters, which will I trust evince the truth of my assertion: that that conduct had been by no means inimical to the interests of this country, but very much the reverse, and perhaps I might urge strongly, the circumstance of his undertaking the matter of the Sierra Leone colony as an instance, he having engaged in it, in the hope, that such an intercourse of good offices, might lay the foundation of more important ones: and this at his own expense, without any, the most distant idea of remuneration; by the extracts you will, sir, perceive the means he had of information, as also the use he made of it; and his letters on the French nation, which appeared in the English papers, would sufficiently evince the freedom with which he spoke of their proceedings, to this he alludes.

"At this time, I cannot but feel anxious for his situation, on account of the bill now before the House—as all communication is stopped, it is very possible he may offend against this bill, without any knowledge of the offence, or its consequences. He was, when I last heard from him, about concluding the purchase of the premises for the manufactory, which has so long engaged him, and he may have to complete it, after the act takes place, unless the communication is again opened, so as that the knowledge of it may prevent him.

If, sir, any further explanation is necessary, or if you are desirous of my waiting on you again, I will attend you at any time you may please to appoint. I have the honour to be, sir, your most humble servant,

W. Stone.

"Rutland Place, Thames-street,
"Monday 8th April, 1793."

"P. S. As the letters may be of importance in the business, I would request to have them returned as soon as convenient, and would beg to repeat my wish of their contents and the extracts not transpiring."

Addressed under cover to Mr. Pitt.

Mr. *Attorney General.*—It was in consequence of the postscript that I could not produce that letter, till these gentlemen withdrew that confidence—here is a letter of April the 15th, 1793, which was the day before Mr. Pitt's letter of the 16th; which I think it ustice to Mr. Stone to read, because it contains a repetition of that offer contained in the close of the last letter.

To Mr. *Thomas Hill.*—Look at that letter [No. 36.]?—I believe it to be Mr. Stone's hand-writing.

[No. 36, read.]

"Sir;—I had the honour of addressing you on the 8th inst. and transmitting some letters and extracts; I have now taken leave to send for those letters, if they have been perused, and beg to know if I may expect any answer, or if it is your desire that I should wait on you, to give any explanation to what I have communicated. I have the honour to be, sir, your most obedient servant,

W. Stone.

"Rutland Place, Thames-street,
"April 15th, 1793."

Addressed under cover to Mr. Pitt.

Mr. *Attorney General.*—The letter of the 16th of April, before read, was an answer to this letter.

Oliver Carlton, esq. called again.—Examined by Mr. *Law.*

Please to look at these papers [No. 24, No. 25, No. 30, No. 31,], where did you find them?—In Hyde's coffee-house, Dame-street, Dublin.

In whose apartment there?—The late reverend William Jackson's.

Was it at the same time as you made the seizure of his papers?—It was at the time I took him.

Was any person with you then?—Yes—Mr. Atkinson.

Mr. Jackson was in bed at that time, I believe?—He was.

Mr. *John Atkinson* sworn.—Examined by Mr. *Law.*

Your were present I believe with Mr. Carlton, at the time these papers were seized, at Mr. Jackson's lodgings at Hyde's Coffee-house?—I was.

Henry Manley sworn.—Examined by Mr. *Garrow.*

You were, I believe, a clerk to Mr. Stone the prisoner?—I was.

Look at this paper [No. 29], whose hand-writing is it?—I cannot say, I think it is Galliers.

What was Galliers?—A clerk to Mr. Stone.

Were you acquainted with his manner of writing?—I have seen him write several times.

Do you believe that paper to be the hand-writing of Galliers?—I do.

Mr. Serjeant *Adair*.—I shall submit to your lordship that this is not evidence.

Mr. *Garrow*.—We show it was found in Mr. Jackson's possession.

Lord *Kenyon*.—State how this is evidence.

Mr. *Garrow*.—That the paper is evidence to be read, nobody will doubt, because it was one of Mr. Jackson's papers.

Lord *Kenyon*.—Why is it evidence to be read? because I am not sure that you do not take that for certain which remains to be proved.

Mr. *Garrow*.—I will state how I humbly conceive this paper to be evidence. We have already given evidence admissible and fit to go to the jury, to show that a conspiracy for the treasonable purposes alleged in this indictment existed between the prisoner and William Jackson and others; that in the course of that conspiracy there was a correspondence upon the subject of that conspiracy; that certain papers passed from Mr. Jackson to Mr. Stone upon the subject of that conspiracy; and certain others, some in the hand-writing of Mr. Stone, and some in the hand-writing of other persons, were forwarded by him from this country to Mr. Jackson.

Lord *Kenyon*.—If you will prove this was sent by him, that removes all objections.

Mr. *Garrow*.—Your lordship knows there are divers ways by which any fact may be proved; the fact of its being delivered over by the prisoner at the bar, is the best mode of proving it, by a witness who saw it delivered; but I submit that there is another medium by which it may be proved; in this way, that a person who might have been ordered by the prisoner to write it (we do not say that he was) that a person who was in the habit of writing papers for the prisoner, has written this paper, and that a paper so written upon the subject of the conspiracy is found in the possession of one of the conspirators, in company with other papers which form branches of the same conspiracy; it is merely a copy of Mr. Smith's letter.

Lord *Kenyon*.—If it contains in it a copy of Mr. Smith's letter, that puts it in a very different posture.

Mr. *Erskine*.—Still we must only take care of this, that the hand-writing of Mr. Galliers is by no means received as evidence that this came from Mr. Stone.

Lord *Kenyon*.—The hand-writing of Galliers, as at present advised, I should think would not make it evidence.

Mr. *Garrow*.—We never meant to contend it would.

Lord *Kenyon*.—With this additional circumstance, it seems to me to have got rid of the objection.

Mr. *Erskine*.—Mr. William Smith delivers a paper to Mr. Stone, which is passed as a fact in the course of the causes. Any copy of that paper, no matter in whose hand-writing, being found in the possession of Mr. Jackson, is a strong presumption undoubtedly that that paper, so found, came from the defendant, Mr. Stone, inasmuch as there is proof in the cause that that very paper was delivered to Mr. Stone; but it does not arise from Galliers hand-writing.

Mr. *Garrow* to *H. Manley*.—Do you believe that paper [No. 80,] to be Galliers writing?—I do.

Which Mr. Galliers was clerk to Mr. Stone?—Yes.

Was Mr. Galliers ever in Ireland?

Mr. Serjeant *Adair*.—Mr. Galliers himself may be called to that.

Mr. *Garrow* to *H. Manley*.—Look at these papers. Whose hand-writing do you believe them to be?—They appear to me to be Galliers hand-writing.

Mr. Serjeant *Adair*.—Now I see the reason why this evidence was attempted to be first connected with that paper, which unquestionably is admissible evidence in the case, and it now leads to that which shows the danger of admitting evidence of that description at all. I have looked at the papers with which I have been favoured, and they appear now to be the hand-writing of another person; a living person, who might be called as a witness; they are now, under the pretence of proving that person to be a clerk of Mr. Stone, going to offer a paper, of which not one tittle is evidence to connect this paper with Mr. Stone.

Lord *Kenyon*.—You need not labour this point till I hear some grounds given why it should be received.

Mr. *Garrow*.—If it has been supposed for a moment that we imagined that the hand-writing of a clerk of any gentleman can at all make that hand-writing evidence against a person, by whom, in ordinary, proper, laudable and legal transactions he was employed, it has been totally mistaken, we had no such conception, and never meant to offer this in any such view; but we humbly submit, that even without the introduction of the last paper, which it is clearly admitted is evidence, but still more strongly after that paper has been read, as it is now taken to have been, this paper is clearly evidence; I must take the liberty of adverting to two or three sentences uttered upon the subject of other papers. We have given evidence that a conspiracy for the purpose of effecting that treason which is alleged against the prisoner in this indictment, subsisted between him and Jackson, and other persons, and that a part of that conspiracy and treason was to be effected by communications in writing, as to the state of the politics of this country, and of Ireland, and the probability of certain principles being brought to maturity by the means of such

communications. We have found amongst the papers of one of these conspirators, certain papers, which by other parts of the proof it is perfectly clear, went from this prisoner, some being in his hand-writing, others being copies of papers which are proved to have been communicated to him, and which appear by other parts of the proof to have been communicated by him to Jackson; and we now find, for I lay out of the case entirely that this is Galliers hand-writing, I do not think it helps my argument at all ———

Mr. Justice *Grose*.—I understood that was the question put, whether it was Galliers hand-writing.

Mr. *Garrow*.—But I do not think that necessary at all, it is an ingredient in the case; it is not certainly so strong, or any thing like it, as if in the hand-writing of the prisoner, but is it not evidence fit to go to the jury, from whence, coupled with all the rest, it is fit to infer that this was sent by the prisoner.

Mr. Justice *Grose*.—It is suspicious when you will not call the man who is known to have written it.

Mr. *Erskine*.—And he is not in their list of witnesses.

Mr. Justice *Grose*.—I know that.

Mr. *White*.—My lord, I never heard a word about Galliers till this young man told me of him yesterday.

Lord *Kenyon*.—Before the evidence is admitted in a case of this kind, one's mind must be convinced that it ought to be received. I think there is too much doubt in this case for me to say that this ought to be received in evidence. The question decided yesterday I have since revolved in my mind as well as I can, and I have consulted the case of lord Lovat, and other cases, and I have no doubt that evidence was properly admitted.

Mr. *Garrow*.—Then we read it as a paper found at Mr. Jackson's.

Lord *Kenyon*.—That is going rather farther than I think the rules of evidence ought to go. I am of opinion that the acts of Mr. Jackson in the prosecution of the conspiracy of which there is evidence between him and Mr. Stone may be given in evidence, but at present it rests to be made out that this paper was adopted by Jackson; it might be a paper officiously and impudently sent to him by other people, and in such a case one is not to press an inference. In conversation I should not scruple to say what I believed, but I will not, sitting in judgment, express inferences upon what I think not legal evidence.

Mr. Justice *Grose*.—Whenever you bring evidence for the purpose of proving a fact, you must give the best evidence. The fact intended to be proved to the jury, is, that this came from Mr. Stone, written by his order. Who is the best evidence to prove that? why the man who wrote it, in this and in every case, whether the matter be criminal or civil. In many cases we do admit evidence that is not the best, because better evidence is not to be produced.

Mr. Justice *Lawrence*.—There is no difference between civil and criminal cases as to evidence; whatever is proper evidence in one case, is in the other. With respect to criminal cases, if there is any doubt, one would lean in favour of a defendant, for the reason mentioned by my lord yesterday, because that is not to be set right afterwards. There is no evidence that this was written by the directions of Mr. Stone unless you connect it with the antecedent letter which had copied in it Mr. Smith's letter, how can this be evidence only upon this ground, because Mr. Stone has employed him to write one letter, therefore you must suppose him to have employed him to write the other? That is going too far when Galliers is alive, and might, if proper notice had been given, have been called to prove that fact.*

Mr. *Garrow* to *H. Manley*.—Look at this paper [No. 31.] whose hand-writing do you believe that to be?—This is my own.

By whose directions did you write that paper?—Very often I used to have letters to copy for Mr. Stone, and it is most likely that I had it in that way; I do not remember the time when I did write it.

You were in the habit as a clerk to Mr. Stone, of copying papers, which he gave you to copy?—Yes.

Look at the paper and say, to the best of your recollection and belief, by whose direction you wrote it?—I suppose it must be Mr. Stone gave it me; I know no other way.

Did you ever write a paper of that import, by the direction of any other person?—No; not to the best of my knowledge.

Is the answer you gave me, that, to the best of your belief, you wrote that by the direction of Mr. Stone?—Yes; I never copied any but by the direction of Mr. Stone.

Did you write it upon your own motion?—No.

And, therefore, you believe you wrote it by the direction of Mr. Stone?—Yes.

Mr. *Solicitor General*.—No. 29 is a duplicate of Mr. Smith's paper. No. 31. is a duplicate of Mr. Vaughan's paper.

Mr. Serjeant *Adair*.—They may be put into Court, they need not be read.

Lord *Kenyon*.—The jury will understand, that these papers which were found in Mr. Jackson's lodgings, are copies of the opinions of Mr. Smith, and Mr. Vaughan, respecting the affairs of this kingdom communicated by the prisoner to Mr. Jackson, in Ireland.

[No. 29.]

"Dear sir,—I was a good deal surprised the other day at the degree of credit which you appeared to give to the rumour of a French invasion? but as I know many are of

* See 1 East's, P. C. 100.

your opinion, and many more affect to be so, I feel desirous of stating to you the reasons why I cannot but disregard any such apprehensions.

"In the first place nothing appears to me more clear, than that those who are now at the head of affairs in France are too wise to make such an attempt, without a prospect of some advantage adequate to the risk which must be incurred by both the army and the fleet employed in the service; and this advantage I should think must be something more than merely the burning a few towns and villages (supposing even that to be accomplished), or the creation of a temporary alarm. From general history too, and yet more strongly from their own recent experience, must they be aware of the difficulty of a hostile army's making any lasting impression on a people unwilling to receive them, and especially on an island in possession of a superior navy, and which can at any time call other fleets to its assistance.—If all this be true it is scarcely reasonable to expect such attempt, unless the French flatter themselves with the hopes of co-operation on this side—an expectation as far as I am able to judge, still less likely to be realized than even that of success without it.—That numbers here are disgusted with the war I have no reason to doubt, but no symptoms have yet appeared of any general disapprobation of government, on the contrary ministers seem to have been successful in raising a strong spirit of attachment to every branch, I might almost say to every abuse of the constitution, nor do I think it possible for any man who impartially views the state of things and of parties in this country, to expect any other effect from an invasion, than an almost universal rising of the people to defend themselves against an attempt which they would consider as levelled at their constitution and liberty, and which they would therefore execrate and resist as much as the French did the duke of Brunswick's irruption. Much has been said of the progress of French principles here, if by this be meant no more than that at one time the opinion was rapidly spreading of the French Revolution having a favourable aspect on the happiness of Europe and of mankind, I firmly believe it—and I believe also, that a pretty general persuasion also prevailed of the existence of such abuses in our own government as required a reformation speedy and effectual—partly however from natural causes, and partly from artifice, I am convinced that these opinions have much decreased both in force and in extent; and that though the tide may turn, yet that it is not by an invasion that such a revolution would be brought about.—We should only wrap our cloak tighter around us, like the man in the storm, and refuse every offer of fraternity, which came in so questionable a shape.

"Sincerely wishing for peace, and thinking that these rumours of invasion are industriously circulated with the view of disquieting the people, and of rendering them more in earnest for the war, I should be very desirous of stating publicly in parliament, every idea I have here communicated to you, if I did not know that my general attachment to the cause of liberty and the satisfaction which I have repeatedly expressed at the overthrow of despotism in France, have rendered me to a very considerable degree obnoxious, and expose my sentiments to misrepresentation of the most invidious kind."

[No. 34.]

"Exclusive of positive information of the temper of the country, it may be known by people at a distance by the following signs:

"There are no petitions against the war.

"There are courtly verdicts given by juries, with few exceptions.

"There are no mobs, though much distress.

"There is much readiness to enlist as soldiers.

"There is much quietness in being impressed on the part of seamen.

"The votes of parliament are nearly unanimous, though the parliament has run through half its length, and the members of the House of Commons look to their re-election.

"The stability of lord Chatham continues in defiance of all his neglects.

"Terror pervades the friends of liberty, who would soon show a different appearance, if they were countenanced by the majority of the people.

"The temper of England is in favor of the first French revolution, but not of the second. However, on the whole, it shows symptoms of being adverse to the present situation of the WAR, not from disliking its principles, but from seeing little profit in it. At the same time that they think its main object unattainable (namely, the overthrow of the present French system), they would be more earnest for peace, had they either suffered enough, or did they think the present French government sincerely disposed to peace.

"There are many persons attached to the principles of the French revolution in England, if they are reckoned numerically, but they are as nothing compared to the great mass of the people who are indisposed to them.

"In Scotland the proportion of democrats is increasing, but they are as yet but a small minority.

"Ireland will follow the democracy of Scotland, each of these countries wants time only to convince itself in its own way, but it will not be convinced by a French invasion.

"If France were to invade England, every man would turn out from good will or from fear, and the few who are discontented would be quelled with ease, as the French citizens

were by La Fayette in the Champ de Mars, or the disaffected lately by the commissioners in Alsace.

"There could be but one line of conduct for Englishmen to pursue, should the country be invaded—they must defend it.

"Wars being but the means of attaining peace, and the well meaning among the subjects of the confederates being told that the French are so adverse to peace, or ask such preliminaries that it is in vain to treat with them, it would be highly useful if France declared, after any new successes which she may hereafter obtain,

"Her aversion to conquest,

"Her disposition to peace,

"Her desire that other nations should govern themselves,

"Her determination of changing the system, if the war against her is continued. And it would be useful also if every convenient opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace, and also if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language, which has an astonishing effect in pacifying the English, and indeed in pacifying Europe.

"It would tend much to conciliate the minds of the English, were the Convention to decree the liberation of all the English now in a state of arrest, unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country within a certain space of time.

"It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war.

"It would be very adviseable to have copies of the more important decrees and reports lodged at Havre to come hither by neutral vessels, for the purpose of being translated."

Mr. *Law*.—We will call Mr. Carlton to prove the finding a paper in Mr. Jackson's custody, and which Mr. Cokayne proved was procured by Mr. Tone.

Oliver Carlton, esq. called again.

Mr. *Law*.—Where did you find this paper, [No. 24]?—In Mr. Jackson's apartment.

[No. 24, read.]

"The situation of Ireland and England is fundamentally different in this—the government of England is national, that of Ireland provincial. The interest of the one is the same with that of the people, of the other directly opposite.

The people of Ireland are divided into three sects—the Established Church, the Dissenters, and the Catholics. The first, infinitely the smallest portion, have engrossed, besides the whole church patronage, all the profits and honours of the country exclusively, and a very great share of the landed property. They are of course Aristocrats, adverse to any change, and decided enemies of the French Revolution. The Dissenters, who are much more numerous, are the most enlightened body of the nation; they are steady Republicans, devoted to liberty, and through all the stages of the French Revolution, have been enthusiastically attached to it. The Catholics, the great body of the people, are in the lowest degree of ignorance and want, ready for any change, because no change can make them worse. The whole peasantry of Ireland, the most oppressed and wretched in Europe, may be said to be Catholic. They have, within these two years, received a degree of information, and manifested a proportionate degree of discontent by various insurrections, &c. They are a bold, hardy race, and would make excellent soldiers. There is no where a higher spirit of aristocracy, than in all the privileged orders, the clergy and the gentry of Ireland, down to the very lowest; to countervail which there appears now a spirit rising in the people which never existed before, but which is spreading most rapidly, as appears by the Defenders as they are called, and other insurgents. If the people of Ireland be 4,500,000, as it seems probable they are, the Established Church may be reckoned at 450,000; the Dissenters at 900,000; the Catholics at 3,150,000. The prejudices of England are adverse to the French nation, under whatever form of government. It seems idle to suppose the present rancour against the French is owing merely to their being republicans; it has been cherished by the manners of four centuries, and aggravated by continual wars. It is morally certain that any invasion of England would unite all ranks, in opposition to the invaders: in Ireland, a conquered, oppressed and insulted country, the name of England, and her power, is universally odious, save with those who have an interest in maintaining it; a body, however, formidable only from situation and property; but which the first convulsion would level in the dust; on the contrary, the great bulk of the people would be ready to throw off the yoke in this country, if they saw any force sufficiently strong to resort to for defence, until arrangements could be made. The dissenters are enemies to the English power, from reason and from reflection. The Catholics from a hatred of the English name. In a word, the prejudices of one country are directly adverse of the other, directly favourable to an invasion. The government of Ireland is only to be looked upon as a government of force. The moment a superior force appears, it would tumble at once, as being neither founded in

the interests, nor the affections of the people. It may be said the people of Ireland show no political exertion. In the first place public spirit is completely depressed by the recent prosecutions of several, the Convention act—the Gunpowder bill, &c. &c. Declarations of government, or parliamentary unanimity, or declarations of grand juries, all proceeding from aristocrats, whose interest is adverse to that of the people, and who think such conduct necessary for their security, are no obstacle—the weight of such men falls in the general welfare, and their own tenantry and dependants would desert and turn against them. The people have no way of expressing their discontents *civiliter*, which is at the same time greatly aggravated by those measures, and they are, on the other hand, in that semi-barbarous state, which is of all others the best adapted for making war. The spirit of Ireland cannot therefore be calculated from newspaper publications, county meetings, &c. at which the gentry only meet, and speak for themselves; they are so situated that they have but one way left to make their sentiments known, and that is, by war. The church establishment and tithes are very severe grievances, and have been the cause of numberless local insurrections; in a word, from reason, reflexion, interest, prejudice, the spirit of change, the misery of the great bulk of the nation, and above all, the hatred of the English name, resulting from the tyranny of near seven centuries, there seems little doubt but an invasion in suffict. force would be supported by the people; there is scarcely any army in the country, and the militia, the bulk of whom are Catholics, would, to a moral certainty, refuse to act, if they saw such a force, as they could look to for support."

Isaac Dejoncourt, esq. called again.—Examined by Mr. *Law*.

That paper in your hand purports to be a copy of the record of the conviction of the late Mr. Jackson, for the crime of high treason; did you examine that with the record?—I did, in the proper office in Dublin, examine it with the record.

And that is an exact copy?—It is.

Mr. *Erskine*.—Is it a final record, and the judgment upon it?

[*There was the following note at the bottom*:—"the prisoner died in court before judgment was given."]

Mr. *Law*.—There is a record of the verdict.

Lord *Kenyon*.—That will not do, it is a very singular case.

Mr. *Law*.—Does your lordship think it cannot be received as evidence of the verdict?

Mr. *Garrow*.—This is a record of all that passed up to the time.

Lord *Kenyon*.—But I do not know judicially what became of that verdict.

Mr. *Law*.—Were you in court when Mr. Jackson died?—I was not.

Mr. *Law*.—Here is a letter, written by Mr. Cokayne, by the order of Mr. Jackson [No. 26.].

Mr. *Attorney General*.—This is a letter signed Thomas Popkins; and which is apparently, from its contents, an answer to a letter of the 11th of April; which is a letter signed Beresford, in the hand-writing of Hurford Stone.—I thought it had been proved.

Mr. Serjeant *Adair*.—It is a letter William Stone never saw.

Mr. *Attorney General*.—If your lordship will permit me to prove it when Mr. Cokayne comes——

Mr. Sergeant *Adair*.—I have no objection to take it as proved.

Mr. Justice *Lawrence*. There was another person, I believe, who spoke to Jackson's hand-writing?

Mr. Serjeant *Adair*.—This is stated to be written by Mr. Cokayne by the direction of Jackson.

(*To Mr. Dejoncourt.*)—Did you stop that in the Post office in Ireland?—I did.

Mr. *Attorney General*.—I am happy to inform your lordship, that I shall finish my case here on the part of the prosecution.

Lord *Kenyon*.—Do you consent to the reading this, when Mr. Cokayne has proved it?

Mr. *Erskine*.—We wish it to be read now; but it is not to be considered as evidence, unless Mr. Cokayne comes to prove it.

[No. 26, read.]

"*Dublin, 24th April.*

"Sir;—You are requested to see Mr. Madgett directly, and inform him that this evening two papers containing the opinion of the first counsel in this kingdom, relative to his family law-suit, are sent off to him by the post. Mrs. Madgett's friend has been wholly occupied since his arrival here in obtaining those opinions, attending different consultations, and collecting what is now sent as a real case in point. Your brother-in-law, with whom the friend of Madgett has had frequent conferences, approves the opinions sent, as containing the opinions of all good and honest lawyers on the subject. Madgett may, therefore, proceed for the recovery of his family fortune, by hostile or pacific means, as he and his friends think proper. I am, Sir, your humble servant, THOMAS POPKIN.

"N. B. Your brother-in-law has written to your wife, in order to find out the sex of your child. I am told that it is a very fine boy, the picture of his father, sound in every part except the brain.

"A. M. Beresford,
"Chez Bourcard, and Co.
"Bazil, Switzerland."

DEFENCE.

Mr. Serjeant *Adair*.—May it please your lordship—Gentlemen of the Jury—You are called upon, on the present occasion, to discharge one of the most important, especially

most awful, one of the most sacred duties, that can rest upon men in civilized society. In your hands are entrusted, the maintenance and support of the just laws of the country in which we live on one hand, and the protection of the lives, the liberties, the honour, and the fortunes of your fellow subjects, on the other. The fate of the unfortunate gentleman at the bar is now in your hands. You are, to-day, to pronounce upon that fate. Unfortunate, from the situation in which he stands, I must necessarily call him, because every man, whether guilty or innocent, is to a degree unfortunate, who stands before an awful tribunal of his country, charged with a crime of the greatest magnitude against society which any individual can commit, and answering, at the peril of his life, after a period of near two years has been employed, to prepare and arrange evidence against him by some of the ablest lawyers in this kingdom. That such a situation is, in itself, enough to weigh down the mind of any man, you all must feel. But, if that situation is always unfortunate, peculiarly unfortunate indeed is that of Mr. Stone, which is distinguished from the general case of prisoners who stand under similar charges at your bar, by a variety of circumstances of hardship, which, though I do not mean to impute them as matter of blame to those who have been the authors of the prosecution, have yet been circumstances of great loss, of great suffering, and of great cruelty, to this unfortunate gentleman.

Whatever may be the event of your verdict to-day (of which I can have no doubt when I recollect the evidence that has already been laid before you), and for which I feel no farther anxiety than that which is necessarily annexed to the situation in which I stand; but, whatever may be the event of that verdict, you have no power, the Court has no power, nor is there any power upon earth that can restore the prisoner to the situation in which he stood on the day before he was apprehended. Possessed, at that time, of an ample fortune, of undiminished credit, of unblemished reputation, of domestic comfort, and numerous friends, by whom he was beloved and respected, he has been, for a space of near two years, driven from these connexions and torn from his domestic enjoyments. He has become, from the necessary consequences—I will say (without imputing any intention of producing those consequences to the parties by whom they have been produced, but, from the necessary consequences of the proceedings against him in this case) he has, from those circumstances of affluence, comfort, and felicity, in which he stood till the time when he was apprehended—become a bankrupt in fortune, and in character. His character is the only thing that can be restored by your verdict. Under a close imprisonment for now a year and three quarters, he has necessarily sustained hardships, which, besides the anxiety of his mind, have inevitably ruined his fortune, impaired his health, destroyed his domestic comforts, and broke down, with calamity and affliction, a tender and affectionate wife, the companion of his fortunes. These are hardships, which, I am sure, the mind of every feeling man must compassionate, and which have been a punishment greatly more than adequate to any crime, which can be imputed to this gentleman, short of the fullest extent of the guilt which is charged in this indictment. To the full extent of that, I have no difficulty in saying that he has nothing to fear.

This is the situation in which this unfortunate gentleman is placed. His life, his honour, the happiness of his family, every thing that is valuable in this world, every thing that is dear to the human heart, and interesting to the feelings of man, are now at your disposal. You have been, as I have already stated, and as you ought to be, informed, on the one hand, that, in cases where crimes of great magnitude and danger to the state, are made out by clear and satisfactory evidence, in intention, as well as in act, to convict is a painful duty; but it is a sacred duty, that attaches, by the laws and policy of the country, on jurymen. On the other hand, there is a duty, not less sacred than that, due to every person who stands charged with a crime that affects his life and honour (a duty which renders necessary the most cautious and circumspect attention to every circumstance that shall be laid before you in evidence) to guard your minds against being misled by ingenuity; against making indefinite or subtle constructions against the life of your fellow creature. In a case where you have reason *to doubt* (I hope I shall even be able to remove that doubt), but, in a case where you have even reason *to doubt* of the *criminal intention* of the party, you ought to guard your understandings in the exercise of that duty; and if you should deliver a man, *innocent in intention*, into the hands of the executioner, his blood would be upon your heads. May he who is the God of mercy and of justice, direct your hearts and your understandings to form that judgment which justice and which mercy require.

Gentlemen, you have heard very distinctly, very candidly, and very honourably stated, by my learned friend, the attorney-general (who in that has pursued the conduct dictated by his honourable mind), the nature of the charge against the prisoner. I do not mean to enter minutely into the form of the charge, as it does not seem to me that any question is likely to arise upon the application of the evidence to the different counts of this indictment. The overt acts in the indictment, which have been attempted to be proved against the prisoner, are, for having confederated with two other persons, named in the indictment, and with persons who are not named, to supply intelligence to the enemies of this country, during a war, for the purpose

of assisting those enemies in the prosecution of that war, and of inciting, encouraging, and assisting those enemies to make an hostile invasion of the dominions of this country. Gentlemen, the crime is a very heavy one indeed; and in proportion to the magnitude of the crime, and to the certainty of the punishment which *must* and which *ought* to await conviction for such a crime, I have no doubt your consciences will direct you to be cautious, and to attend well to the proofs by which so heavy a charge is supported.

My learned friend has, with the same candour which I have already so justly ascribed to him, stated to you, in the outset, that which it would have been my duty most strongly to impress upon your minds, if it had not been already impressed upon them from an authority in every respect preferable—from an authority of greater weight in itself, in respect of abilities and character—from an authority of much greater weight, when it proceeds from the law officer of the crown, discharging his public duty in the conduct of this prosecution—that you cannot, consistently with your duty; that you cannot, consistently with the obligations of justice; that you cannot, consistently, as my learned friend truly and eloquently expresses it, with the feelings congenial to the breasts of an English jury—you cannot, whatever has been the conduct of this gentleman, convict him of the treason with which he is charged, unless you are satisfied of the *wicked purpose of his heart*; and that the acts that he did, and assisted in doing, were done by him, with a full knowledge of the dangerous and malignant purpose to which they were directed; with a deliberate intention, in his mind, of assisting the enemies, and subverting the government, of that king, to whom he owes his duty and allegiance.

Gentlemen, that statement, so ably, so candidly, and so eloquently made, at the outset of this prosecution, has relieved me from those endeavours which it would have been my duty to have made, in order to enforce that principle as well as I was able; because I am confident, that that early impression in your minds, joined to the feelings which my learned friend truly stated to be planted in the heart of every inhabitant of this happy country, accustomed to the due and regular administration of justice; that sentiment, and that feeling, is too deeply impressed upon your mind to suffer me to think it necessary to take up one moment of your time in enforcing that principle, as I am confident you know your duty, and that you will have a pleasure in discharging it, to acquit the prisoner, if, after all you have heard on both sides, you should remain *doubtful* of *the intention* with which any of the acts imputed to the prisoner have been done; and if it is your duty, as I trust it is, and as I know will never be denied by my learned friend who opposes me, to acquit the prisoner. If you should remain *doubtful* of the intention with which those acts were done, how much more forcibly will you feel that duty, how much more will your honest breasts rejoice in the performance of it, if I satisfy you, as I flatter myself I shall, in the course of the observations I have to make, and the evidence that it may be necessary to lay before you on the part of the prisoner, that there is *no doubt* of those *intentions;* that they do not remain in balance at all; and, whether his conduct has been strictly prudent, and strictly regular in all its points, or not, you will *not have a doubt* that his principles and intentions were such as became a good subject.

You observe, gentlemen, a great deal has been said, and necessarily said, in this cause; and a great deal has been proved and necessarily proved, respecting the two other persons mentioned in this indictment (and this is a part of the case which will call for your most serious attention, in order to distinguish the weight and effect of the evidence which has been adduced before you); a great deal has been said, and a great deal has been proved, respecting two other persons, not now upon trial before you, because it was necessary that you should be convinced that the gentleman now upon trial for his life, and charged with high treason in conspiring, with two other persons distinctly named in the indictment; it was necessary that you should be persuaded, or led to believe, by some evidence or other, that these two persons, or one of them, had entertained the traitorous purposes charged in this indictment; for, if that was not proved, this charge against the prisoner must have fallen to the ground. It was for that reason (and I trust I shall not be corrected by the high authority under which I speak in stating that it was for that reason alone) that a great deal of evidence has been laid before you, with respect to the conduct and opinions of other persons than the prisoner at the bar; a foundation has been laid for that evidence, by proving that the prisoner had a certain degree of connexion and intercourse with those persons; from which it was contended, that you should be led by the whole body of evidence, to infer, in the result, that he was consenting to the traitorous purposes which were imputed to those other persons. I believe I have pretty correctly stated the ground and the *only ground*, upon which the Court, with that attention to justice which I know we shall experience in every stage of this cause, has admitted a great deal of the evidence which has been laid before you.

You will, therefore, (attending to the ground upon which that evidence has been admitted, and the purpose for which it has been adduced) guard your minds, with that caution with which it is your duty to guard them, against carrying the effect of that evidence which has necessarily been laid before you, but which is not brought home personally to the prisoner, farther than the law allows, or in truth than

your own common sense and good understanding will carry it. So far as the prisoner is not proved privy to it, and it is not brought home to him, it is only evidence to establish that point, necessarily to be established in this prosecution.—I mean, the traitorous intentions and purposes of those *other persons*. This leads me necessarily to say a word or two with respect to both those other persons.

The first and most important in this transaction, is an unfortunate gentleman (for guilty or innocent he has certainly been unfortunate, of the name of Jackson; whose life has fallen eventually a sacrifice to the crimes of which he was guilty, or to those which were imputed to him. That gentleman has unquestionably been prosecuted in a neighbouring kingdom; and you, in common with every body, are possessed—though, under the legal form commonly adhered to in the administration of justice, it is not strictly laid in evidence before you, but we all know the fact—that Mr. Jackson has been convicted of high treason in Ireland, and that he is dead.

Gentlemen, it has been stated, and it appears distinctly from the evidence that has been read for the purpose of proving Mr. Jackson a conspirator, which was necessary, as a preliminary step, before you could affect Mr. Stone at all of conspiring with him, it has been proved to you what the nature of the treason imputed to Mr. Jackson was. It appears, from the papers that have been read which apply to Mr. Jackson (letters proved to be written by himself to different persons, containing certain statements respecting the kingdom of Ireland, where he was tried and convicted) that the nature of the crime imputed to Mr. Jackson, beyond the possibility of being mistaken, was—and it is a crime unquestionably of the greatest magnitude and atrocity that any man can possibly commit—a deliberate purpose to encourage the enemies of these kingdoms, in a state of actual war, to make an hostile invasion of the kingdom of Ireland, in which he then was; which traitorous and wicked purpose, for such most unquestionably it was in the highest degree, he endeavoured to effect by a representation—whether true or false—(God forbid it should be true, in the extent in which he appears to have made that representation)—of the likelihood of success—that there were many other traitors besides himself in that country (which is unfortunate indeed, if that representation be true) who were likely to assist the enemies of their country, should they attempt, with a sufficient force, to effect a landing in that kingdom.

Gentlemen, that such a representation was likely to produce the calamitous effects intended, it is impossible to deny; that such a representation could be made in the manner in which it has appeared to be made by Mr. Jackson, to the enemies of this country, with an *innocent purpose*, it would be extremely difficult indeed to maintain. I thank God that arduous task is not imposed upon me; a task which perhaps hardly any situation can make a duty,—that of endeavouring to impose upon your understandings, by attempting to give an innocent construction to the acts and opinions that have been proved with respect to Mr. Jackson; it is not necessary for the prisoner, it would be a heavy task indeed if I were to attempt any such vindication of that unfortunate man. —I therefore shall dismiss the subject of Mr. Jackson with stating that, whether innocent or guilty, the crime imputed to him, and the crime supported in a great degree by the evidence that has been adduced respecting him, was that of persuading, provoking, and encouraging an hostile invasion of his country, and by that means being the probable instrument of inducing one of the greatest calamities that can possibly happen to any nation upon earth.

It cannot, gentlemen, have escaped your attention, that all the evidence in this cause goes to show that the conduct of Mr. Stone has been the direct reverse of that of Mr. Jackson. If Mr. Jackson was justly convicted, and I am of opinion myself that he was justly convicted,—if the breast of every loyal subject should—if it were possible to apply that term in a criminal case,—rejoice at a conviction for a crime such as I have described to you, what will be the effect of an address to the human understanding, or what the feelings of a human heart in a case the reverse of this? Can it be inferred that a man who is proved to have pursued a conduct the direct reverse of Mr. Jackson's—a conduct calculated to produce an effect diametrically opposite to that calamitous effect of Mr. Jackson's conduct should be implicated in the *same degree of guilt*, and share the *same* unhappy *fate* with that man? That is a mode of reasoning, which I confess, my understanding is altogether inadequate to comprehend.—That it should be, as it is, a crime of the highest magnitude to invite the foreign enemies of the country to an hostile invasion, to involve it in blood and ruin, and that it should be a crime of *equal magnitude* to do every thing in a man's power to *prevent* these consequences, will be a doctrine too strange, and too absurd, for my friends to bring home to your understandings and to your hearts. That the latter has been the conduct of Mr. Stone, you cannot but have felt. I will make it before we close, as clear as the sun at noon day, that the wish of Mr. Stone's heart, and the exertions of his conduct, even in the most imprudent act that has been imputed to him in this case, was, to rescue his country from that impending calamity, which an invasion unquestionably is, whatever might be the fate of that invasion, and the ultimate consequences to the invaders.

I will make it too clear to doubt for a moment, that the object of Mr. Stone was, to prevent the calamity and the horror which must take place when an enemy makes good a

landing in an island like ours, though ultimately the spirit and virtue of the nation may repel those invaders, and ruin them in the attempt. However mischievous it might be to those who should make that attempt, no man's mind would wish for a moment to encourage an invasion for the sake of conquering the invaders; no man of humanity, who felt as he ought to do, could for a moment hesitate whether he should hold out a decoy to the enemies of the country, by way of leading them into a snare, by which means he might involve in blood and horror that happy country, in which no enemy has dared to set his foot for centuries; no man of common sense and reason could hesitate for a moment between the alternative, if he had it in his power to invite them by a decoy, to expose his countrymen to the horror and desolation which is the necessary consequence of an hostile invasion, especially in a country long used to peace and plenty; and where (though the stern virtue of the inhabitants would, I have no doubt, get the better of such an invasion) we have not those fortresses—we have not those great military establishments in the interior of the country, which it is necessary for self-preservation, to keep up in countries which by their situation, are exposed to frequent hostile invasions.—The calamities therefore of an invasion, dreadful as the calamities of war as you see are in other countries upon the continent, would be tenfold in a country circumstanced like this.

I believe I might venture to go one step farther in this case, and not run much hazard of being deceived in my opinion, if I were to state, that, in the situation in which France was, at the time of these transactions with armies—no matter how forced into the field, but having armies stated to amount to a million or twelve hundred thousand men—laying aside the dictates of humanity, which, I am sorry to say, appear to have been long laid aside by the governors of that country—it would, I say, have been worth the while of the leaders of that country, for the purpose of advancing those ambitious projects which the government of France then entertained, to sacrifice forty or fifty thousand men to certain destruction, to produce the mischief in this country which must necessarily arise from an invasion.

Gentlemen, after this representation, for which I appeal to your knowledge and to your understandings, will it hereafter be contended, that the efforts of Mr. Stone to prevent an invasion, were intended to promote the success of France, and not to prevent the calamity of England? That is a proposition which it would be too difficult for any ingenuity that can be exerted in support of this prosecution to bring home to the feelings of any man; it is a proposition so monstrous, that, I believe, if it were necessary to support that proposition, or to give up the prosecution, my learned friends who conduct that prosecution would not hesitate as to the alternative.

Gentlemen, there is another person besides Mr. Jackson, of whom it will be necessary to say a few words, before I enter more particularly into the circumstances of this case; and that is a person more nearly connected with the prisoner a great deal than Mr. Jackson (what the nature of the connexion between Mr. Jackson and Mr. Stone was, it will be hereafter material for you to consider)—the brother of Mr. Stone, Mr. John Hurford Stone; then, and now, unfortunately for this gentleman—and in my opinion (however I may differ from Mr. John Hurford Stone), unfortunately for himself—resident, and in a great degree, as stated by the attorney-general domiciled in France.

The situation of that gentleman will be, in some degree, material for your attention. It has been stated, I think, pretty fully and accurately by Mr. Attorney General in the opening, and is still more fully explained by the letters which have been read in evidence on the part of the crown (and that will certainly relieve me and you from the fatigue and delay of producing a body of evidence, which it would have been necessary for me otherwise to have laid before you) what the real situation of Mr. Hurford Stone in France was. That matter is now so fully established by the whole tenor of the letters which have been read, that I need not fatigue you with a recapitulation of the particular expressions of them; they are in so little danger of being contradicted or misunderstood, in their general effect, that I think I may venture to state the result of that correspondence, and what the situation of John Hurford Stone was.

First, it will be necessary to observe a little upon what appears to be the *character* of that gentleman; he appears to be a man of a fervid imagination, and a restless mind, rather with a turn inclined to speculation and theory, ready to enter into any projects, and to have no great objection to innovation; this most unquestionably appears, from the course of the correspondence, to be the outline of the character of that gentleman; and his brother, who (notwithstanding all the misfortunes which have arisen from this unfortunate introduction by Mr. John Stone of Mr. Jackson to his acquaintance) must necessarily entertain the feelings which he has always had for his brother, of a tender and affectionate friendship, must forgive me, if I make that representation which appears to be the fair result of the evidence in the cause, of the character of Mr. John Hurford Stone—representing it as one of which I do not myself feel an entire approbation, and one from which my opinions are known extremely to dissent: but it seems to me that the true character of this gentleman is, that he is a man of a fervid and enthusiastic mind, fond of speculation, and engaging in new enterprises, and no enemy to innovation. That gentleman foreseeing that important consequences, commercial as political, must necessarily [illegible]

strange events that have taken place in a neighbouring kingdom, was led, partly by curiosity, and partly by speculations in commerce, and the hopes of future advantage, to visit that kingdom, in order to explore the situation of it, and to see whether there was a probability of that future advantage upon which his mind seems always speculating, by forming an establishment there.

Unfortunately, as I think it was, for Mr. Stone, in that pursuit he believed himself to have been successful; and it appeared to his judgment, at the time of his writing these letters, that he had been able to establish, anterior to the time of the transactions upon which this trial has arisen, that he had been able to establish, as you find distinctly stated in one of his letters, and agreeing with the general tenor of his correspondence, three distinct and flourishing commercial and manufacturing establishments in France; he had, therefore, acquired an interest, and a deep one with respect to property, in the kingdom of France. The temper of mind that I have described to you, which appears to me from the result of this evidence to be the characteristic of that gentleman, had also made him an easy prey to those unhappy delusions, under which guilty men have introduced the greatest calamities that have desolated the earth, and by which many innocent and virtuous men have been deluded.

The temper of Mr. John Stone's mind left him an easy prey to those delusions, and therefore you find him in the situation of an enthusiastic speculative man, pledged by property and connected by interest with France, and led by the temper of his mind to fancy, and to entertain a hope, which I fear will be disappointed, that good might ultimately arise out of much evil; and that the destruction of the ancient government, the despotism of France as it has been called, might ultimately be attended with the establishment of rational and substantial liberty in that kingdom, after a series of convulsions and horror which would to most men have been sufficient to deter the mind from looking forward to any future prospect, or hope of ultimate benefit resulting to that populous and extensive country, or producing the liberty and consequently the happiness of men.

Gentlemen, of the delusion of these persons no man living is more deeply convinced than he who has now the honour of addressing you. But it is a delusion, which I know has actuated the minds of many men as honest as, and perhaps of some men wiser than myself. That it was a delusion which actuated the mind of Mr. John Stone there cannot be a shadow of doubt. You therefore find him, under these impressions of mind, and of interest co-operating, carrying on a correspondence when domiciled in France, with his brother resident in England; that correspondence was carried on between brothers who did live in a state of friendship and affection with all the confidence which necessarily arose from that situation, with no great care taken on the part of John Stone to conceal his sentiments (however reprehensible they might appear) from his brother, and with an affectionate forbearance, at least on the part of his brother, even in those points where he might dissent from him.

My learned friend the attorney-general I recollect in his opening, stated that which I should also have stated, if he had not candidly preceded me in that statement, that, considering the situation of Mr. John Stone, at that time in the kingdom of France, and the near connexion between him and his brother, it was perhaps too much to expect that he should have abstained from all correspondence whatever—and my friend candidly and truly stated that of which the prisoner ought to have the full benefit, that it would have been difficult for the *wisest man living*, under the existing circumstances, to have conducted that correspondence with perfect prudence and with perfect safety. I noted down the expression when it fell from my friend I again repeat that I was glad it fell from him, in the first instance, rather than from myself, but undoubtedly it was an observation which it would have been my duty to state to you if he had not, and of which the prisoner is entitled to the full benefit. If it appears to the vigorous and enlightened mind of my learned friend, that it would have been difficult for the wisest men—for a man as wise as himself, had he the misfortune to have a brother in the situation and of the character I have described, to have conducted a correspondence with him with perfect prudence and perfect safety, how difficult must it have been for the unfortunate gentleman at the bar?—that therefore will be a lasting apology, honourably made by the counsel for the prosecution himself, for any indiscretions that may appear in the course of the correspondence between those dear connexions. You will not have a doubt when you recollect the whole of the evidence that, even if the intention of Mr. Stone's brother went to the full length of deliberately betraying the interests of his own country, if these wishes were ever entertained by his brother, domiciled in France, that such a purpose never was entertained by the prisoner William Stone.

Gentlemen, I have now stated the situation and character of the persons concerned in this unfortunate transaction, of a confederacy with whom, for the criminal purposes stated in this indictment, the prisoner is charged. It will now be necessary having made you acquainted a little with the situation of the parties, or having rather discharged my duty in recalling to your mind those circumstances of the evidence with which you have been made acquainted (for you can be made acquainted with nothing in the administration of justice, but by the evidence laid before you), it will now be my duty a little more particularly to advert to the circumstances of the case.

Gentlemen, I stated to you, in the outset, the sufferings which, without the necessity of imputing blame to any body, have, perhaps necessarily, arisen from the unfortunate situation into which Mr. Stone has been brought. There is another circumstance extremely material—to which it is not my wish, nor is it necessary for the interest of my client, to attach any degree of blame or imputation; but a circumstance extremely unfortunate to the prisoner, for reasons I have already stated, which has been the extreme delay of his trial—a delay, undoubtedly encreased by the prisoner himself, in the last Term, for I wish to keep nothing back from your view in this case; he conceived that circumstances material to his defence could be proved by witnesses who were absent, and under that impression you will not wonder that a gentleman who is to take his trial, whose life, whose honour, and whose property is at stake, should be anxious to produce the whole of his evidence, even at the expense of adding something to the sufferings he has already sustained.

But the great length of time which has elapsed, from whatever cause, since the first commitment of Mr. Stone, gives rise to an observation extremely material for your attention in this case. Government, at the time of the arrest of Mr. Stone, or within a few days and almost a few hours of that arrest, by the seizure of Mr. Stone's papers in England, and of Mr. Jackson's in Ireland, together with the letters that were intercepted, were, I may venture to say, possessed of all the evidence that has been laid before you to-day. It is therefore extemely material to the substantial conviction of men's minds, as to the innocence of Mr. Stone, to observe that a series of a year and three quarters, employed by those who are to exert the most persevering industry, as well as the greatest acuteness in collecting (by collecting I mean nothing improper, on the contrary, I mean the discharge of a duty in collecting) material evidence in support of the charges by those persons who have the conduct of public prosecutions; but yet all that industry and ingenuity, directed by the skill of the law officers of the crown, during a year and three quarters, has produced *no new evidence* against Mr. Stone.

Gentlemen, was that ever the case with respect to a man who had in truth been engaged in a treasonable conspiracy? I believe I may venture to say that it was not; and that there never was a conspiracy imputed to any man where every year, every month, every week, from the time that conspiracy was disclosed or suspected, did not furnish new facts and new evidence of those facts if the imputation was founded in truth. If therefore I had upon the examinations before me, and upon some mysterious and enigmatical papers, which have been read in evidence to you in the course of this trial, and which were then obtained by government; if I had at that time, entertained a suspicion of the guilt of Mr. Stone, the total inability to find any farther fact to corroborate that suspicion, to find any farther evidence after enquiring through all the kingdom of every man who knew the prisoner what his conduct and demeanor, conversation and habits, had been, after possessing all his papers for a year and three quarters; I confess that circumstance alone would have acquired great weight with me to have removed that suspicion which at first had taken possession of my mind.

This is a case therefore in which you *cannot* be called upon—I think in no case of this nature *ought* you to be called upon,—to infer any thing against the prisoner, either in act or intention which is not distinctly proved by evidence brought home to himself—I say by evidence *brought home to himself*, for that is a distinction of which you must never lose sight; because, though it is necessary, in order to establish the guilt of Mr. Stone at all, under this indictment, to show that the persons with whom he was confederated were implicated in the imputed guilt, by evidence applying *to those persons;* it does not necessarily follow that, if you have proved the guilt of those persons, you have proved the guilt of Mr. Stone. That is a conclusion, which you must guard your minds against; and which it is the more necessary to guard your minds against, because from the nature of the charge of a conspiracy, the jury must necessarily hear a great deal of evidence *applicable to other persons* than the prisoner, which, though legally admitted, and necessary to be produced in support of the prosecution, for reasons that I have already stated, ought not to affect the prisoner, one jot farther than they are proved to have been *facts within his knowledge and approved and assented to by him*—now I will venture to say that if you sufficiently attend to that distinction, the prisoner at the bar will, notwithstanding the situation in which he stands, be as safe as I am upon this occasion.

Gentlemen, the seizure of all his papers (of which I do not complain, it was a legal measure) has induced another effect; it has excluded us from the *possibility* of laying before you any written evidence in this case; we possess none; all the written evidence that ever existed, that might have been favourable to the prisoner, we have been deprived of for near two years.—Even the memory of Mr. Stone himself cannot suggest with any accuracy the contents of those papers; and if it could, his memory would by no means enable me to lay them at all before you. All that Mr. Stone can do, therefore, with respect to written evidence, is through me, and my learned friend, who, fortunately for Mr. Stone, will come after me, to call your attention to the written evidence, that has been produced on the part of the crown.

Applications have been made for access to those papers, and for a perusal of them, in order to enable Mr. Stone, and those who

were to conduct his cause, to judge whether there was any among them that might be material to be submitted to the consideration of the Court and jury. These applications have been refused—I cannot, as a lawyer, state that Mr. Stone had a legal right to that indulgence—I therefore make *no complaint* of that farther than that the law so administered, induces a considerably greater actual hardship upon the gentleman who is to defend his life, because he has not even had access to those papers, to refresh his memory as to facts and transactions, nor to require the production of any of them, if any of them there were, that might have been material for his defence; and the recollection and memory, under that agitation of mind, peculiar to the situation of a man committed for high treason, is not to be supposed to supply recollection of dates, of facts, and the contents of papers sufficient to enable us to call for the production of such papers.

With respect, therefore, to written evidence, I can lay nothing before you but what has been already produced by Mr. Attorney-general,—and, I must say, that the same candour which has directed his conduct in other instances, which I have mentioned, seems to have directed it in the production of that evidence; because he has certainly laid before you a great bulk of correspondence of Mr. Stone's brother with him, a great part of which proves circumstances material to the defence of the prisoner, at the same time that inferences are attempted to be drawn from other parts of them, to satisfy you of his guilt. Therefore, it will be incumbent upon me with reference to the charges of the indictment, not to do that, which I am unable to do in a case of this length, and with evidence so voluminous, and which, perhaps, would not be essential to justice, if I were to do it—not to go through them minutely, with distinct observations upon every word and paragraph, but with observations upon some of the most material parts, and general observations upon the result of the whole; for the propriety and justice of which I will appeal to your own understandings. It will be my duty to show in what manner these letters apply; how far they go to establish the basis of the prosecution, and how far they go to support the defence of the prisoner.

Gentlemen, you have already understood the nature of the charge, it will now be necessary to remind you of the outlines of the facts of the case, independent of particular expressions, in particular letters that have been produced. They are these—That, in the month of February, 1794, a person of the name of Jackson, a native of Ireland, and as it is stated also, a clergyman, who had been resident for some time in France, having left England on account of his debts, and to avoid his creditors, came over privately by the way of Hamburgh, and from thence to London, with letters of introduction and recommendation to Mr. Stone in London, from his brother in France. Mr. Stone, from the situation of his brother, knew that his brother had (as will appear from many of his letters) considerable influence which he had acquired by his exertions in advancing commerce and manufactures with some persons of consequence in France.—That Mr. Jackson was represented as his friend, a person in his confidence, introduced by him in the character of an American merchant.—That Mr. Stone in consequence of that recommendation, showed civility, attention, and friendship to Mr. Jackson, while in London.—That he supplied him, at his departure, with bills, by the desire of his brother, for which Mr. Jackson gave his receipt; and that Jackson, after residing some weeks in London, departed for the kingdom of Ireland, where, after some time, he was arrested and ultimately tried for high treason—That, during Mr. Jackson's residence in London, Mr. Stone communicated to a number of persons, that such a gentleman was here, under the description which he had received of him. —That he was connected with persons of power and influence in France—That he communicated the purpose of a protracted invasion of this country, by that country, grounded as it was believed upon a mistaken persuasion—thank God a very mistaken persuasion—of the dispositions of the people of this country.—That Mr. Stone, in consequence of that communication, had expressed his own sentiments to Mr. Jackson, and had collected the sentiments of several other persons, with a view, as Mr. Stone said,—for so I will put it now—with a view of preventing that calamity to this country.

This is the general outline of the facts in evidence before you, independent of the circumstances which are adduced, in order to infer guilt to the prisoner on the one hand, or to exculpate him on the other. There is also evidence before you of the very criminal conduct of Mr. Jackson in Ireland, after he had gone there. Of communications made by him in that country, of a very improper nature; which leave no great room to doubt of his guilt; and of some intercourse of a mysterious nature between him and Mr. Stone. How far that goes we must consider more particularly afterwards. This is the general outline and feature of the case, independent of the particular observations that may arise. And, I believe, I have hitherto stated facts undisputed, and the fair result of the outline of the evidence, stripped of the peculiar circumstances from whence the guilt or innocence of the prisoner is peculiarly argued.

The question, therefore, for your decision will be, upon these facts, and joining to these facts all the circumstances that have been given in evidence, written and unwritten, whether you are persuaded, from what Mr. William Stone knew of the character and situation of Jackson, and the purposes for which he came here, the purposes for which

he went to Ireland? And in general, from all the features of the case—whether you are of opinion, that Mr Stone gave that information which undoubtedly he did give to Mr. Jackson, with a view of being afterwards communicated by him, to Mr. John Stone abroad, and, perhaps, to other persons, with the criminal intention imputed in this indictment, that is, with an intention of assisting the enemies of the country, in their hostile measures against this country, and for supporting them in war against his majesty, and his House? Or whether he did it, with the intention which he says he did, and which he has always said he did, *of averting that calamity* from this country? Now that, I think, I have truly and fairly stated to be the question, and the only question you are to try. For the facts as I have before stated, are as clear as the sun, established beyond a possibility of doubt;—that Mr. Jackson came over, recommended by Mr. Stone to his brother; that Mr. Jackson received from Mr. Stone the information which has been given in evidence, respecting the dispositions of the people of England; that Mr. Jackson afterwards, in fact, went to Ireland; and that Mr. Jackson there committed crimes for which he has been justly convicted. These, I consider, as facts established in the cause. There is, therefore, in truth, no question, but *the intention* with which Mr. Stone did all that he appears to have done, in this transaction.

Gentlemen, that being, I think, a fair statement of the general outline of the case; let us consider, whether there is distinct evidence of the overt-act of treason, by which this indictment is to be supported, if it can be supported at all; and of that which is indispensably necessary to be made out, in all cases of crimes, and more especially in a case of this nature, I mean, not only the overt-act of that species of treason charged, but also *the intention* with which it was done. Now what can we put our finger upon, in all this body of evidence laid before you, as an overt-act of treason in Mr. Stone, but the two papers relating to the state of this country, as applicable to the supposition of a French invasion; which he communicated through the medium of Mr. Jackson. I cannot conceive or imagine, that there is any other evidence whatever in this cause, that can be considered as applying to any one distinct overt-act of any species of treason charged on Mr. Jackson, much less of the species of treason charged in this indictment. I, therefore, consider that, as the overt-act upon which they must rely, in support of this prosecution. All the rest of the evidence in the cause, is evidence explanatory of that fact, and to endeavour to draw an inference on one side or the other, of that which is essential to the question of guilty or not guilty, *the intention with which that act was done.*

In the first place, you will not forget, how *extremely* different in its nature, in its consequences, and, therefore, in its probable motive, this overt-act of treason is, from the overt-act of treason which was imputed to, and proved against Mr. Jackson. This overt-act of treason, if it can be stated and supported at all, is a charge that Mr. Stone gave information to the enemies of this country, that the state of this country was such, as to make an hostile invasion imprudent and unadvisable in them—not for the purpose of protecting this country from the calamities of such a situation; but, for the purpose of securing France, from the mischief that would have attended such an attempt——In putting it so, I think I put it as strongly for the prosecution as possible. Now that overt-act of treason is extremely different in its nature, and, if there be degrees, in its degree—but what is more material, it is essentially different in its probable motive, from the overt-act of treason of which Mr. Jackson was accused.

He was accused of doing that, about the motive of which there could be no doubt.—He was accused, of *inviting*, of *encouraging* the enemies of the country to make that hostile *invasion, in one country*, which Mr. Stone is accused of *having prevented in another.* And I do not state it too strongly, how odd soever the sound may be, that the only accusation against Mr. Stone is, his having *prevented that invasion of England*, which Mr. Jackson *invited in Ireland.* I admit, in strict construction of law, the intention with which he did so is a question, upon which you must ultimately decide; but, with respect to the *motive*, the very nature of the act essentially affects the probability in the outset: for, when you find a man inviting and persuading an enemy to come and invade his country, it is impossible it can be innocent; it is criminal in itself; it necessarily tends to produce mischief, calamity, ruin, every thing that is bad and which a good subject can deplore.

But is the effect the same, are the motives the same, by which a man is actuated, to endeavour to *dissuade* the enemy *from invading*, as to invite an invasion? It is clear a *contrary motive* produces a *contrary effect.*—From contrary causes contrary effects, and contrary inferences proceed.—If a *persuasion* to invasion is *guilt*, the inference is probable that a *dissuasion* is *innocent*; because the *direct consequence* of one is *mischievous* and *ruinous*; the direct consequence of the other is, beyond all doubt and question, *in fact advantageous* to the country, whatever may be the motive.—When therefore you find a man doing an act which, in its consequence, is *beneficial* to the country of which he is a subject; what principle of humanity, much more what principle in the administration of justice in this country, would lead a jury, for one moment to infer a *criminal motive* annexed to *a beneficial act*, without evidence so clear and cogent that it was impossible to resist the inference?—Let us see therefore what the evidence on that subject is.

Having thus stated to you, I think fairly, the question, and the whole question you are called upon to decide; I will now give you a summary of the evidence that has been laid before you as well as my limited abilities and imperfect attention will permit. I am extremely happy that any omissions of mine, will hereafter be supplied by a gentleman than whom no man is more capable to supply them.

The evidence that has been laid before you, applies to these different points, in order of time, and in the nature of the thing. It applies to the situation of Mr. Stone in France; to the general tenor of the correspondence between him and his brother: to the mode of introduction of Mr. Jackson; to Mr Stone's conduct while Mr. Jackson was in London; to the immediate papers, which are the evidence to support the direct overt act charged against Mr. Stone; to the extrinsic circumstances relative to these papers, from which the *intention* of Mr. Stone is to be inferred; and to that body of proof (which I mention only to lay it out of the case as far as concerns Mr. Stone) which goes to show the criminality of Mr. Jackson's conduct in Ireland, after he had left England.

With respect to the first, I need say little more to you than I have done. Mr. John Stone's situation appears, from his letters, to be what I have already stated to you, as far as affects his actual situation and connexion with France. But there is this which farther appears, and which I will state now from the whole body of the correspondence, being perfectly ready (if it is possible that that should be denied) to refer to the particular passages by which what I am going to say is supported; but at present I shall venture (relying on the memory of the Court and of you gentlemen of the jury) to state as the result of all this correspondence, that John Stone was engaging in a variety of branches of commerce in France, almost as various as imagination can suggest: and inviting his brother, from time to time, to concur in those projects of entering into new branches of commerce, with a view to their mutual commercial advantage. That I will venture to state as the result of the whole body of that correspondence, without hazard of contradiction; and without entering into the particular paragraphs I will venture to state upon memory, many of the different branches of commerce mentioned.

He is going into the banking business, as appears from two or three of his letters; besides the manufactories that he had before established, he is projecting a trade in British cotton hose; he is establishing a trade in printing and in books; he is establishing a trade in wine; he speaks of remittances of wines by ships to be sent from and to Hamburgh; he alludes to the drawing and re-drawing of bills, upon which he states in one letter, that a profit of above forty per cent was to be made; and, in short, he seems to be going into that general system of theoretical projects, into which a man of the character I have described, is likely to fall, at a time when circumstances open extensive views to projecting minds. He is turning his mind to every branch of commerce, which imagination could suggest to him, as likely from his peculiar circumstances to be advantageously carried on; and he is repeatedly, in these letters, making propositions to his brother, and soliciting him to join in these projects, in which Mr. William Stone's temper did not seem to make him so very ready to join.

Gentlemen, this is the general outline of the correspondence. The use that I intend to make of that result is, hereafter to explain to you several expressions, which it has been contended relate to political and not to commercial subjects. That some indeed of the letters, of Mr. Jackson at least, which profess to relate to commercial subjects, are *colourable*, I shall not insult your understanding by denying. But that many of the expressions in the letters of John Stone *bonâ fide* related to matters of business, and that the expressions in some of his letters, which have been much pressed and relied upon, by my learned friend the attorney-general in his opening, the expressions in which John Stone tells his brother William, that this American gentleman, whom he represented as an American merchant, will have many propositions to state to him; that these naturally do, and unquestionably may refer, to those commercial propositions that John Stone had been repeatedly suggesting, and had been certainly projecting himself, is an inference which I am sure, even if it were not in favour of life, a jury would be inclined to draw. When you find a man engaged in a vast variety of commercial transactions, and engaging in a number of theoretical projects, relating to advantages of that description; when you find him, in a letter, introducing a person to his brother, as a person who would have much business to talk to him about, and many propositions to make; I say it is a *fair* and *natural inference*, even if it were not called for as *an inference in favour of life* it as a fair and natural inference, that by that business and these propositions were meant, that which is the general subject, though not the only subject, of John Stone's letters to his brother; and which shows that there was abundant business, and propositions sufficiently numerous, which that gentleman so introduced to Mr. Stone, might have to communicate and to consult with him about.

That there appears also, from some of those letters, and from a part of the evidence of Mr. Cokayne, to which I shall advert more particularly hereafter, to have been a project of a commercial kind, not justifiable in its nature, entertained by John Stone, and countenanced by Mr. Jackson, which was one at least of Mr. Jackson's errands to this country,

is also established beyond a doubt. I mean the project of an illicit trade, by supplying France, in a state of enmity with this country, with provisions and necessaries, a project criminal in a high degree though not the crime charged in this indictment. That appears from Mr. Cokayne's evidence, to have been a part of Mr. Jackson's business in this country; all this appears clearly from the evidence —And therefore, those expressions to which I have alluded, and which have been so much relied upon by the attorney-general, as inducing a suspicion that Mr. Jackson was to communicate to Mr. Stone the whole of his political purposes, as well as all others, falls to the ground, when from the actual situation of the parties, the correspondence that has been read, and all the evidence in the cause, you find that there are subjects abundantly sufficient, to which these expressions may relate, without torturing them to a sense to support the charge against the prisoner; when I say that, I mean that this must be a necessary ingredient to render the charge more probable as to intention; this therefore is the result of these general expressions in the letters of Mr. John Stone.

There is another circumstance that is extremely observable, in the whole of the correspondence of John Stone, from the first letter in which any allusion is made to Mr. Jackson, to the end of the transaction by the apprehending of the prisoner; which is, that, throughout the whole of that correspondence, though all Mr. William Stone's papers have been seized by the Crown, and been for near two years in their possession, no one letter, note, or paper has been produced, in which Mr. Jackson is represented to William Stone in any other character than that of an American merchant.—That is an extremely material fact: for I observe, both by a part of the opening of my learned friend, and by some of the questions put to the witnesses that have been called, it was thought material to prove that Mr. Jackson was a clergyman, a native of Ireland, and not what William and John Stone represented him to be. It is material for your observation, that this is a secret which John Stone at least never thought proper to communicate to the gentleman at the bar.

What Mr. Jackson said to Mr. William Stone, you are aware it is impossible, either for my learned friend the attorney-general or me, to give in evidence:—I was going to say to know. That would not perhaps be correctly stated—it might be possible for me, from my client, to know what Mr. Jackson's own representations to him of himself and of his own character were, and to know all that Mr. Jackson said to Mr. Stone on the subject; but I could make no use of that knowledge; those declarations are incapable of being proved by witnesses; and the declarations of himself would be no evidence—knowing that I should exceed the duty of an advocate even for a prisoner, upon trial for his life, if I were to state to you what at the time I stated it, I know could not be made evidence in the cause—what could not, by any possibility, come judicially before you. You therefore cannot have any representations, nor any evidence with respect to Mr. Stone's knowledge of Mr. Jackson, except from the account given to him by his brother's letters, and the evidence of living witnesses, who can speak to the nature of the connexion and intercourse that subsisted between them.

I am now therefore possessed, from the letters read, of that which I consider as the first step of evidence for the defendant in that part of the case; that William Stone after all the time which has been taken for the search of papers, and inquiring of living witnesses, is *not shown* to have known, or even to have had ground to suspect, that the character in which Mr. Jackson was introduced to him, was *not the true one*. There is not an expression in any one letter (I sat up to a late hour last night to read them through) there is not one expression in any one of them which tends to raise even a suspicion in the mind of William Stone, that Mr. Jackson, who was then, for the first time, introduced to him by his brother, was any thing else than that which he stated himself to be, *an American merchant*. The circumstance therefore of that not being the true character of Mr. Jackson, is no circumstance whatever against the prisoner—if possible it goes farther, and is *a circumstance in his favour*; because it appears that, so little did Mr. William Stone entertain any criminal intentions, and know of any criminal purposes for which Mr. Jackson was to visit this country, which made it necessary for Mr. Jackson to assume a different character from that which was his true one; that John Stone *did not choose to entrust this gentleman* with *that secret*; for he never does entrust him with it. It is not in any of his letters; and all his letters have been seized—for it is in proof (and I asked the witnesses who seized the papers) that Mr. Stone had neither the opportunity, nor in the smallest degree showed the least inclination, to remove, secrete, or destroy any papers whatever.

I have, therefore, a right to say that, under such circumstances as this, after a complete survey of Mr. Stone's papers, a free and unbounded access to every thing, there being no circumstances of spoliation or concealment, I have a right to say, that John Stone *never did communicate the true situation of Mr. Jackson to his brother*. Why did he, if he conceived his brother likely to concur to the full extent of that criminal purpose, conceal the true character of this person? that he did so is proved beyond a doubt. Mr. William Stone, therefore, had no cause to suspect criminal intentions in Mr. Jackson, from his assuming the character of an American merchant, because William Stone never knew he possessed any other character.

But farther; the next circumstance, from which it is inferred that Mr. William Stone must have known the criminal purposes of Mr. Jackson, and if he did not to the fu extent know them, he cannot be affected by them.—The next circumstance from which that is endeavoured to be inferred, is, the privacy and concealment which Mr. Jackson affected in London, and with the knowledge of Mr. Stone, when he went to Ireland; to wit, by wishing his letters to be addressed to other persons than himself, by conducting himself with some circumstances of apparent concealment (though you find it is not much while in London, and none that could be observable by Mr. Stone) and by desiring letters in Ireland to be addresssd to him by another name. These are circumstances which have been relied upon, on the part of the prosecution to show that Mr. Stone must necessarily (and unless it shows that, it shows nothing affecting Mr. Stone) have known before Mr. Jackson went to Ireland, the criminal purposes for which he visited that country.

Now is that a fair conclusion? Let us look at the evidence of Mr. Cokayne—Mr. Cokayne, who was the intimate friend of Mr. Jackson, who knew who Mr. Jackson was (which Mr. Stone did not), who was an old and confidential friend of Mr. Jackson, though afterwards employed as a spy of government against him—Mr. Cokayne, the very person to whom, upon his first landing in England, without any previous communication, he gives Mr. Clarke, the captain of the vessel, the address for his letters to be sent.—That Mr. Cokayne, the confidential friend of Mr. Jackson, the confidant afterwards of his most criminal purposes when in Ireland, even that Mr. Cokayne, under these circumstances of confidence with Mr. Jackson, has positively sworn—and he is a witness adduced by the crown as deserving of belief, otherwise he ought not to have been adduced at all—Mr. Cokayne positively swears, that notwithstanding all that intimacy, though he was the person to whom Mr. Jackson's letters were to be addressed and not Mr. Stone (which is not a little material), though he was the person who was to address Mr. Jackson's letters for him, he positively swears, that to the moment of Mr. Jackson's leaving this kingdom, in which journey he himself accompanied him, he never knew or suspected, that purpose of Mr. Jackson for which he was tried and convicted in Ireland; that he never knew, or suspected, that Mr. Jackson was an emissary of the French government, for the purpose of procuring intelligence to facilitate an invasion of that country. I asked Mr. Cokayne directly, whether previous to his going to Ireland, he ever knew any thing of Mr. Jackson's purpose in going to Ireland, and for which he was afterwards tried and convicted. He positively said he did not. But Mr. Cokayne's evidence goes farther upon this part of the case; for it states why Mr. Jackson appeared in England, and at London, under circumstances of concealment; it states why he had his letters addressed either under names fictitious, or to other persons——

Lord *Kenyon*.—Brother I am sorry to interrupt you, if I have made any mistake in my notes I will correct it. His answer, as I have taken it, was—"I did not know the purpose of his journey to Ireland before I went to Ireland."

Mr. Serjeant *Adair*.—Your lordship has taken it verbatim, I believe; my statement is, that while in England, Mr. Cokayne, his confidential friend, did not know the purpose for which he went to Ireland. You see at once, gentlemen, what the inference from that is, as to probability, unless the contrary is shown by the evidence; Mr. Cokayne was a great deal more likely to know it than Mr. Stone; Mr. Cokayne, who knew Mr. Jackson's real character, who knew he was not what he called himself, an American merchant; Mr. Cokayne, who was in such habits of friendship, as to be the person to whom, immediately upon his landing, he directed his letters to be addressed, *he* was infinitely more likely to know Mr. Jackson's real designs, while in London, if any body in London had known them, than Mr. Stone, to whom he was a total stranger, and to whom his real character was never known, as far as appears upon the evidence. Then Mr. Cokayne furnishes us also with evidence of the reason of Mr. Jackson's affected concealment; why he did not choose to appear in London, why he had his letters addressed to Mr. Cokayne, and addressed in feigned names; he desired me, says he, to direct his letters, *that his being here might be concealed from his creditors*. And Mr. Cokayne had before stated, that he had left the country on account of debt. It was, therefore, essential to Mr. Jackson, that his being in England should not be known to his creditors, and with that view it was that he desired Mr. Cokayne to address his letters.

Gentlemen, I will beg to recall your attention to the object, to establish which I was observing upon the evidence of Mr. Cokayne, it was to show, that it is manifest from his evidence, that he, who was much more intimately acquainted with Mr. Jackson, that he, who had much greater opportunities of the confidence of Mr. Jackson, never entertained the least idea of the object for which he went to Ireland, during the time that he remained in England; and during, therefore, the only time in which Mr. Stone had an opportunity of learning it, otherwise than by letters,—the whole of which letters have been laid before you.

I have also observed upon the evidence of Mr. Cokayne, that it explained the reason of Jackson's desire of concealment; of his addressing letters to Mr. Cokayne, and in fictitious names, because he had left the kingdom, on account of his debts, and had returned with a desire of concealment from his credi-

tors; and that, therefore, fully accounts for a circumstance which was urged by the learned and able counsel, as tending to show a knowledge that Mr. Jackson had come for some criminal and traitorous purpose. I have therefore, I think, pretty well established these two points from the evidence of Mr. Cokayne. I have explained away these two first circumstances, from whence the knowledge of Mr. Stone was attempted to be inferred. I have also shown that John Stone never chose to communicate to his brother the secret, and from the whole of his correspondence, he never, in fact, did communicate to Mr. Stone the secret of who Jackson was, but represented him to this gentleman in the character in which he appeared, namely, as an American merchant—a character assumed for the purpose certainly of concealing who he was from Mr. William Stone, who never knew him under any other description.

I proceed to state that Mr. Cokayne's evidence goes still farther, and is still more material, because Mr. Cokayne states that Mr Jackson though he did not communicate to him the traitorous purposes for which he went to Ireland, communicated to him the wish of establishing some mercantile connexions. Mr. Cokayne has stated farther, that Mr. Jackson asked him, if he, Mr. Cokayne, knew any merchants who could assist in providing provisions, and other necessaries for France, on which he (Mr. Jackson) might have commission to any amount.

Now, gentlemen, I draw two conclusions from this part of Mr. Cokayne's evidence. First, that Mr. Jackson represented himself to him, his confidential friend, as coming to England for the purpose of establishing certain commercial connexions, from which he expected to derive a benefit, whether licit or illicit; that therefore, it is not colourable to apply the purposes for which Mr. Jackson would appear to Mr. William Stone to have come to London, the quantity of business which Mr. John Stone represents Mr. Jackson would have occasion to consult him about, and the propositions which Jackson was to make to William Stone:—to apply them in truth, to these commercial connexions, whether lawful or unlawful, whether of a praiseworthy or a blameable nature, for which Mr. Cokayne his friend understood him to come to London. That is the first inference I drew from that part of Mr. Cokayne's testimony; and it is a fair inference, because not only John Stone states in his letters the number of projects in which he was engaged, and in which he was soliciting his brother to concur —therefore there are a number of propositions which Mr. Jackson might have to make upon that subject to Mr. Stone,—but Mr. Cokayne states that Mr. Jackson said his purpose in London was, to establish commercial connexions there, and afterwards more distinctly to establish these commercial connexions in one instance at least, for a purpose certainly not praise-worthy or lawful.

But there is a stronger conclusion still to be drawn from this same part of Mr. Cokayne's evidence, which is, that Jackson, stating such to be his object in London, asks Mr. Cokayne, an attorney, if *he* knew of any merchant who would assist in that transaction. Now, if Mr. Stone had been the confidant of all his treasonable purposes,—if Mr. Stone had been made acquainted with every thing that he intended to do, what occasion had he to consult Mr. Cokayne, an attorney, to ask him whether he knew of any merchant who would assist him in that improper enterprise of supplying provisions to France? That Mr. Jackson, recommended to Mr. William Stone, by his brother, urging Mr. Stone to a concurrence to a certain extent in these projects of commercial advantage, lawful or unlawful, without regarding much, as it appears, whether the one or the other—under these circumstances, that Mr. Jackson could (if he had had that confidential intercourse with William Stone, which must be imputed to him to support one tittle of this indictment) be driven to the necessity of asking Mr. Cokayne if he knew of any merchants who would assist in that transaction, is absolutely impossible to believe. He himself knew a merchant, and that was William Stone; he knew he had no occasion to apply to any body else, but the person he was addressed to by his brother. But instead of that, having been a considerable time in London, consulting him with Mr. Cokayne, telling him the purpose with which he came to London, he asks him—Do you know any merchant who will assist in that transaction? This is, as far as the nature of the case admits, proof positive from a witness on the part of the Crown that Mr. Jackson had unsuccessfully communicated that part of his purpose to Mr. Stone; and had not found a readiness in Mr. Stone to concur even in that unlawful project, or it is impossible he should be driven to the necessity of consulting an attorney, whether he knew of any merchant who would engage in that intercourse, if Mr. Stone was that merchant, who knew all his illegal purposes, and concurred in them and who would be glad to share in all those advantages which he proposed.

Gentlemen, I say this is proof positive to the understanding of any man of common sense, that Mr. Jackson (whatever discoveries he made to Mr. Stone) must have failed in his purpose with respect to that gentleman, or he would never have been driven to the necessity of consulting Mr. Cokayne on a business quite out of his line. Mr. Stone was a person who had commercial connexions, and might have found out (if such were to be found) persons capable of assisting in such a transaction. This carries conviction to my own mind, I trust it will be the strongest conviction to yours, that Mr. Jackson must have failed, even in that part of his criminal design with Mr. Stone, or he would not have made that application to Mr. Cokayne.

There is another, and that is the last observation I shall have occasion to trouble you with, upon this very material evidence of Mr. Cokayne: short as it was, it seems to do away, in a great degree, any cloud which I have hitherto observed that they had been capable of throwing upon this case; and to render it unnecessary for me to go at large into many of the points, which otherwise might have been necesssary; for he states this in the conclusion, after all that I have observed upon—"Mr. Jackson told me, the purpose for which he came to England was not likely to succeed, and he must go to Ireland."

Now, Gentlemen, see what is the effect of that.—What was the purpose for which Mr. Jackson came to England, as far as Mr. Cokayne was privy to it, while Mr. Jackson was in England? It was to establish an illicit trade for supplying the enemy with provisions; he had failed in that purpose in England. Why had he failed?—Because the merchant to whom he had been addressed had declined being concerned in that unlawful transaction. There is no other account to be given of it; for he would not have failed, if Mr. Stone had been a willing accomplice in that plan. Mr. Stone was employing an immense quantity of shipping, in an extensive trade, and in a trade that, of all others, requires the greatest number of shipping, at the time. If Mr. Stone, from covetousness, or from adherence to the king's enemies, had wished to concur in a project of that kind, Mr. Jackson, after having spent five or six weeks in London had no reason ultimately to complain to Mr. Cokayne that he had failed in his purpose in England, and for that reason must go to Ireland: that is the import of his evidence, if you suppose that to be the purpose for which he came to England. If, on the other hand, you suppose the purpose he came to England to be to obtain information respecting an invasion, with a view of facilitating the landing of the enemy, *that also had failed*; and we see it had failed *by the means of Mr. Stone.* So that, which ever way you put it, whether you refer it to the illicit design of supplying the enemy with provisions or to the much more criminal purpose of supplying them with intelligence, in order to facilitate an invasion—whichever of these purposes you apply it to, he had failed through Mr. Stone—Mr. Stone had done that act which decided that it would be a vain attempt. Mr. Jackson seems in a subsequent letter, which was intercepted from him going abroad, still to entertain the idea of suggesting some kind of invasion to the enemy. Yet Mr. Stone had defeated him in that purpose, and rendered it impossible that that project could be undertaken, by the representation which he had given upon that subject; and the object for which he gave it will be hereafter for your consideration. I therefore think there never was in a few lines, in a quarter of a sheet of paper, more material evidence given for a prisoner, than Mr. Cokayne's.

This evidence, therefore, has given a full answer to many of the suspicious circumstances, from which the attorney general wished you to infer Mr. Stone's knowledge of the true character of Mr. Jackson, and of the true purposes with which he came to England, and for which he went to Ireland. I think it has completely explained, and done away any inference that can arise from any of those circumstances.

The next circumstance that has been adduced, has been the supplying Mr. Jackson with money upon his departure. Now, that cannot be a criminal act, unless you suppose it to be supplied for the traitorous purposes which are charged in this indictment; I mean it cannot be a criminal act within the purview of the present indictment; for I agree with my hon. and learned friend, the attorney general, that it might possibly have been considered as an illegal act, and therefore in the eye of the law a criminal act too, under the traitorous correspondence bill, which prohibited the advancing a supply of money to persons who have been resident in France. That it might, perhaps, in strictness, have supported a charge upon that act, may possibly be the case; but that it has any relation to this charge, unless that money was advanced in order to further and assist the treasonable practices of Mr. Jackson in Ireland, I perfectly know cannot be supported. Let us, therefore, see what Mr. Stone's motive in this was, and under what circumstances he did it, and what was his conduct in respect to it afterwards.

This gentleman, to whom Mr. Stone supplies this money, comes with a recommendation from his brother; and, whatever I might think of his character and conduct—whatever might be his character and conduct in France, it is manifest Mr. Stone retained a brotherly affection for him. He had deep concerns in point of interest, in commerce with him; whose demands and requisitions with respect to money (exclusively of the positive law which had been then but recently passed) he was bound, by every principle, not only of affection, but of honour and honesty to comply with. Mr. Jackson brought from that brother a credit to a limited amount, accompanied with a statement of the account, which has been read in evidence, which appears to be in truth money really due from Mr. John Stone to Mr. Jackson, for the payment of which he gave an order upon his brother.

What, therefore, are you to infer from the conduct of Mr. Stone?—that he, from the best and most honourable motive in the world paid the debt of his brother; which, independent of the positive provisions of the law, he was bound upon every principle of honour and honesty to do, from affection to his brother, regarding his credit; attending to the situation of the man whom his brother had repre-

sented as his friend, he paid that debt—imprudently undoubtedly, if he had recollected the provisions of the act I stated.

But, gentlemen, there is another observation upon that account, which is by no means immaterial.—Is the credit given by Mr. John Stone, in its nature and extent, any thing savouring of that kind of credit which is given to a spy, an emissary of the government of a great kingdom, coming for treasonable purposes? We have had evidence on other trials for high treason of the spies from foreign enemies, by which it has appeared, that they have abounded in money, and were enabled to spend thousands upon thousands. If the political purposes for which they are sent requires it, their credit is unlimited, or to an immense extent. From the nature of their mission it must be so; and I believe there never was an instance of a spy for the government of a powerful country, known to be such by the person giving him credit, limited to the amount of a small debt due to the person who gives the credit. That is the strongest proof that this money never was intended for the purpose of furthering treasonable designs, or enabling Mr. Jackson to conduct himself successfully as a spy of the French government. The evidence is totally contrary to any that ever was given against a spy for the government of a great kingdom.

This being the nature of the transaction, was there, in that credit given to Mr. Jackson upon William Stone by his brother, to the limited amount of a small debt, any thing that could lead William Stone to suspect it was intended for treasonable purposes?—It is impossible that the mind of man can conceive that there was. Then, if, from the nature of the transaction itself, Mr. Stone had not the least ground to suspect, in the most remote degree, that the object of that credit was for any treasonable purpose, what was his conduct when apprehended? Instead of wanting to conceal this transaction, he is eager to disclose it. They knew nothing of this receipt, but in consequence of something which they did not give in evidence; but the witness said very properly (keeping within the bounds of the rule of evidence) in consequence of something, the witness said, which passed before the privy council, they went with the prisoner to his counting-house; there he assisted in the search for the papers, and expressed the greatest pleasure and satisfaction when these papers, which are now produced here against him, were found.

Now, had Mr. Stone, at the time, been conscious that this was a credit given to Jackson as a spy, to enable him to carry on traitorous purposes in another kingdom, this was the first paper that Mr. Stone would have destroyed. He would have *swallowed it*—or done any thing with it, rather than have produced it in evidence; but instead of that, he expressed his gladness and satisfaction, because he had reason to think that it would explain any part of his conduct, which might be liable to suspicion on the part of government; and he trusted (I believe he truly trusted) to the candour and fairness of government, that if they found that this was a *bona fide* advance to the creditor of his brother, for a small debt, at the request of his brother, that they would not prosecute him, on the traitorous correspondence bill, for that offence. I believe he had a perfect confidence in the candour and generosity of government, and that he would not have been disappointed, though the facts might have supported that prosecution.

I trust, therefore, it appears clear to you, that, up to the time of Mr. Jackson leaving this kingdom, Mr. Stone had no ground whatever, that appears in evidence before you, to suspect what were the purposes of his mission. I have stated distinctly every one of the grounds that have been alleged as circumstances that might have led him to suspect it; I think I have explained them all, from the evidence that has already been laid before you; and I think I may draw this conclusion: "that up to the moment of Mr. Jackson's leaving England, Mr. Stone had no ground to know, or suspect, his traitorous purpose in Ireland." Therefore we have, as far as the knowledge of Mr. Stone, as to Mr. Jackson's purposes in Ireland, goes, carried the case as far as to Mr. Jackson's departure from this kingdom.

The next circumstance, from which it is inferred that Mr. Stone must know the treasonable purposes of Mr. Jackson in Ireland, is, the correspondence, if it may be so called, which passed between Mr. Jackson and Mr. Stone, after Mr. Jackson left England, and when he was in Ireland. The correspondence between Mr. Stone and Mr. Jackson amounts *only to three letters*, two written by Mr. Stone, and one written by Mr. Jackson: I say, the correspondence between Mr. Stone and Mr. Jackson amounts to only three letters; because another letter, addressed to Mr. Stone by Mr. Jackson, which has been read in evidence, never reached the hands of Mr. Stone, and therefore is no part of the correspondence that passed between the two parties; for, in a correspondence between two parties, both must be actors, and implicated in the knowledge of that correspondence.

Let us see the effect of these letters, which have been so much relied upon, in the correspondence which actually did pass between Mr. Jackson and Mr. Stone. The first of these letters, which is Mr. Jackson's letter to Mr. Stone, is of the 5th of April. The looking for that letter brings to my eye another circumstantial evidence, from whence the knowledge of Mr. Stone was to be inferred, concerning Mr. Jackson, and that on the addresses left by Mr. Jackson with Mr. Stone before he went to Ireland. Their addresses to persons with a cross, a [illegible] mark; these letters to be addressed [illegible]

person, and the inside of the cover to another.

With respect to these addresses, it is only necessary to observe, that there was sufficient ground to William Stone for caution and concealment, with respect to a correspondence abroad, without supposing that he was conscious of, or privy to, any criminal or treasonable purpose whatever in this country.—The situation of his brother abroad, made all correspondence of that kind hazardous to his brother. You will find, in the letters of his brother, various intimations, in different letters, of the hazard of his letters not coming safe to his hands; complaints that some letters had not come to his hands at all; and particular intimations to be cautious; and, what is very material, in one of his brother's letters which was read [No. 10], that caution which his brother recommends to him, is particularly directed to *money transactions*:—"You must be very guarded how you mention money transactions; for," says he, "though I have received a great deal of attention and civility in that respect, yet I cannot be sure that my letters will not be open to inspection."

There is another of his letters, which has been read in evidence against us, which still goes to show the caution used by John Stone. He tells his brother to inform Mr. Jackson, he must not direct his letters any more to him, but must direct them to his friend Nicholas; so that the whole of John Stone's correspondence tended to impress the mind of William Stone with the necessity, as far as respected John Stone, his brother, of using great caution in the transmission of letters abroad. Then Mr. Jackson gives him addresses, through which it is supposed he may send letters, with a certainty of reaching their destination. He also gives those addresses for another purpose, of which Mr. Stone might be perfectly ignorant, and, as far as any evidence goes in the cause, was—for the purpose of addressing any letters that Mr. Jackson might send to him, to be forwarded abroad, in order to secure them; the contents of which Mr. Stone might know as little of, if any such had been sent, as Mr. Cokayne said he did about those letters he addressed for Mr. Jackson. These addresses, therefore, upon which so much mystery was thrown, form in truth no prominent feature in the case; and I do not wonder they escaped my recollection, till they caught my eye upon the same page with the letter I was going to speak about.—These addresses were found, and were in no degree concealed. If it were worth while to call the messengers back, I could prove that those addresses Mr. Stone himself produced out of a book, where the messenger never would have found them.

Gentlemen, I was going to speak upon the correspondence between Mr. Jackson and Mr. Stone; the letter of Mr. Jackson, of the 5th of April, to Mr. Stone, which is signed Thomas Popkins. The reason of the feigned names, as to Mr. Jackson, is pretty obvious from Mr. Cokayne's evidence. Mr. Jackson had creditors in England, and probably in Ireland, which was his native country. Mr. Jackson wished to be concealed from those creditors; Mr. Jackson therefore (manifestly for that purpose) did not choose to put a letter in the post-office in his own name; he therefore assumed a fictitious name. No doubt his intentions in Ireland were so criminal, as to make it an important object to him to conceal his name; however, his being in debt was a reason that satisfied the mind of Mr. Cokayne, up to the time when he left England. For the same reason, Mr. Stone's letters not having reached his brother, signed with his name, Mr. Stone does not make use of his own signature, but reverses his name. Then let us see what the correspondence, under these two signatures of Popkins and Enots, is.

Mr. Jackson begins first with a general apology for not writing. Then he states the reception he had met with in Ireland. He says, "some very excellent friends, to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service; and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions; accepting, as I do, the will for the deed, they have a claim on my gratitude."

Now surely there is nothing in this first paragraph, that could lead Mr. Stone, or any man alive,—unless he had known it before,—there is nothing in this paragraph, that could lead him to suspect any treasonable purpose in Mr. Jackson. I have, he says, met with a kind reception from "friends to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service, and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions." There is nothing in any one of these expressions, that any man alive would apply to a treasonable conspiracy, if they did not know it before; still less, if you will consider that Mr. Cokayne has already proved an object to which it clearly must apply; for he has proved that Mr. Jackson failing,—as I say through the negative of Mr. Stone,—of establishing these commercial connexions in England, went to Ireland for that reason, as he told Mr. Cokayne. Suppose he had told Mr. Stone the same thing he told Mr. Cokayne, it was natural for Mr. Stone to refer to that transaction, from which Mr. Jackson expected to derive so much benefit, those expressions which can relate to nothing which was not beneficial to himself.

Then he says, "I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed." Most undoubtedly it is evident, to any man of sense who reads this let-

ter, that these words are colourable, and intended as a cloak. God forbid that I should disgrace my own understanding, or affront yours, by pretending to satisfy you that Mr. Jackson meant by these, articles of trade, it is manifest he did not. "You will have the goodness to inclose your letters to me, under a cover directed to John Cokayne, esq.; and if you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me, as the assizes at Cork are about to commence." These words undoubtedly are also colourable; it is impossible for us to contend, nor do we believe, that these words related to an actual family at Shields, having business at the assizes at Cork. Why then, to what do they relate? Here too I am happy to remember,—as I am always happy to appeal to my learned friend when I can,—I am happy to remember an expression of my learned friend in his opening, when he was observing upon this very letter, "what Mr. Jackson meant by writing in that manner, it is impossible for my imagination to suggest,"—I think was the expression of my learned friend.

Now, gentlemen, I really might stop there. If it is impossible for the refined, the subtile, and enlightened understanding of my learned friend, to suggest what Mr. Jackson meant by that letter, it is rather too much to call upon you to infer what he meant, in order to affect the life of the prisoner. Ingenuity ought not to be applied to extracting such meanings, and such inferences. But no ingenuity can extract that meaning, because no ingenuity can refer those expressions to any specific treasonable design whatever. And however enigmatical, however mysterious they may appear, they must be referable to some specific treasonable design, entertained between the writer and the person to whom they were addressed, before they can at all affect the life of the prisoner at the bar. I will therefore defy, and I throw out the challenge, not in a reply at the conclusion of the cause, not when nobody is capable of answering me, but I throw it out, when I know I am to be answered by a gentleman of the most respectable abilities. I defy any man to apply these enigmatical expressions, distinctly and to your satisfaction, to any specific treasonable purpose whatever.

But let us see now, as far as we can, what they pretty plainly mean. I am very ready to state, that from this, and from Mr. Stone's answer, by the *family at Shields* I understand *some persons in France*; and the reason of my so understanding this, I will state when I come to Mr. Stone's letter. Now, giving that construction, which is, I presume, the construction for which they contend, I will read the letter. "I request you not to make use of the addresses I left you, the price and nature of the articles being entirely changed," which I suppose to refer to the addresses given in evidence (and I am now giving every supposition the prosecutor can call for.) "The price and nature of the articles being entirely changed"—What is the meaning of that?—There had at that time happened one of those many convulsions, that were continually happening in France, in consequence of that miserable revolution which had taken place (for so *I* shall always call it, whatever the opinion of *others* may be); there had at that time happened a convulsion at Paris, which changed the hands of power, might render those directions, which would have made the letters reach their destination, whether their import were of a private nature or otherwise, safely, while the departments of government were administered by one set of persons, and which would have caused these very directions to be intercepted in the hands of others; and therefore the caution not to use any of these directions, connected with the context of this passage, *refers* to an apprehension, *not of their being intercepted here*, but *abroad*. The danger apprehended was, from the circumstance of the government being conceived to be so changed, that those addresses might be less secure abroad than they were, not that they might be less secure here, for that is impossible to contend. "If you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me, as the assizes at Cork are about to commence." What is the particular and precise meaning of that, I agree with my learned friend, the attorney-general, I cannot explain, nor conjecture; but I defy any man fairly to apply it to any specific purpose charged in this indictment, or design entertained by Mr. Jackson himself, much less by Mr. Stone.

Now we will see Mr. Stone's answer:—Mr. Jackson having, as I stated to you, assumed the garb of concealment in London, for the reasons I have pointed out, Mr. Stone begins at first with an expression, natural to a man who had been addressed by a friend of his brother's, saying that he was happy Mr. Jackson found himself so agreeably situated where he was. He says he has received no letter *for him*, but the day after he left him, he received one to say that Mr. Jackson's first letters were received. Now what these first letters of Mr. Jackson's were, what their purpose was, we do not know; what their purpose was, *Mr. Cokayne who directed them does not know*; much less can Mr. Stone be supposed by any evidence in the cause to know. But all that Mr. Stone says is, he received a letter saying that Mr. Jackson's first letter (about the contents of which *we* are as ignorant as he, and *he* as ignorant as we) was received. "I have received another since, in which mine was acknowledged, which I wrote the post after Gillet was with us, but no mention was made of any other."

"I have not made use of what you left with me; what a wonderful change there is in the family!" now it is this, and what fol-

lows that leads me to be convinced that it certainly alludes to persons in France—to the convulsions which then had taken place in Paris—"will it tend to any good?" to what good? it might tend to good to this country as well as to France; it might tend to good to France, without injury to this country; it might tend to the good of all mankind if there was a change in that country for the better. There is nothing therefore in that paragraph, from whence the least criminal idea can be imputed to any man alive. "I confess I think better of it now than before," so should I, because it would have been impossible for me to have conceived that any change could be for the worse. That any government should be worse than that, which was subverted by that convulsion, and on every convulsion that has taken place in Paris, though they have gone from bad to worse, yet I should have thought better of the prospect than before, from any change of any kind, or description—"I want what you possess, a knowledge of the several branches of it, to form a proper judgment of their conduct in the last fracas,"—now though Mr. Stone, judging as I should have done, that any change was likely to be for the better, he does not rely upon that judgment entirely, but says he wants what Mr. Jackson possesses, who had been resident in France, and had a knowledge of the government there, in order to form a proper judgment of their conduct in the last fracas. I have no difficulty in understanding Mr. Stone's letter, because he appears to have had nothing to conceal, as I shall show presently in observing upon the subsequent parts of his letter.

You see Mr. Stone, in answering the letter of Mr. Jackson, has made use of the same style with Mr. Jackson, and the same allusion (certainly a fictitious one) of the family. He takes up the expression of *the family*, and speaks *at first* of the French government under that name. But Mr. Stone, having nothing to disguise upon the subject, having nothing that he wished to conceal, and not caring, (when he reflected a moment) who saw what he wrote upon the subject, or who understood it, he immediately translates what he had said before if the sense had been doubtful; for I appeal to your understandings, whether the next paragraph is not a direct translation of these enigmatical expressions, for these expressions merely mean the change that had taken place, the convulsion which had happened in Paris, of which he asks whether it would tend to good?—he now says in plain English, "Political affairs seem taking a strange turn—if we take into our view the great whole—I cease to wonder at any thing—we seem I think to be the only party resolved to go on with vigour," pretty true at that time, I am afraid, and the consequences were felt afterwards. "The king of Prussia publicly avows his disinclination, and I think the French, as well as the emperor show it by their inaction. But to what can the proscription now going forward in Paris tend?" This is exactly the same as was said in enigmatical expressions before. "Will it purify them and make their conduct less exceptionable? that shows Mr. Stone's idea of their former conduct was the same as yours and mine. "Will it purify them and make their conduct less exceptionable, and their government more fixed and permanent? I really feel a kind of awe in thinking on those subjects, and see every day new matter to astonish me," who is there that did not concur in *that feeling at that moment?* that did not feel an awe, when thinking on those tremendous convulsions, that were threatening all the governments of Europe, and did not feel every day new matter for astonishment?

Is there one tittle of high treason in that letter? Is there one tittle which the most subtile imagination of a prosecutor can torture into a knowledge, an avowal, a participation, much more into *assisting* in *any treasonable purpose* whatever, much less the treasonable purpose contained in this indictment? I am sure my learned friends will not attempt by any ingenuity to strain it farther than what appears to them the fair interpretation. But, is it possible for any men, if they felt themselves at liberty to play the advocate, as if it were a civil cause, to torture those expressions; is it possible to apply them, either to a knowledge or concurrence, in any treasonable purpose upon earth? The utmost they amount to is, to show that there was some degree of mystery between Mr. Jackson and Mr. Stone—To raise a general cloud, of indefinite suspicion, which may add weight to precise evidence, when precise evidence is given. But God almighty forbid, that ever an English jury, that ever any court of criminal jurisdiction, in this, or in any country upon earth, should from a general indefinite suspicion, raised by ambiguous expressions, or conduct that cannot, from the nature of the case, be distinctly and specifically explained, affect a man upon trial for his life, without precise and distinct evidence to bring home both the *act* and *intention* of the crime, for which he is specifically charged; that such inference as that cannot be drawn from this evidence, I leave with confidence to your judgment.

Upon the only remaining letter of that correspondence I shall make this single observation—it is *two lines* addressing a letter, which has been read, signed N. M. to Mr. Jackson in Ireland, addressed to him by Mr. Stone, without *any comment*, without any observation whatever: merely telling him that he had a letter enclosed in that cover, of the contents of which there is not one tittle of evidence, that Mr. Stone had the smallest knowledge. Whatever these contents were, if they contained the foulest treason that ever entered into the heart of man, and were ever so directly applicable to the treason as applied to Mr. Jackson, no man alive who regards the ad-

ministration of justice, would ever affect Mr. Stone with the contents of that letter personally, unless there were evidence before you that *he* was *apprized* of its contents—there is *no such evidence* before you, and therefore I shall not waste your time, nor exhaust my own strength, by commenting upon the expressions of a letter, with the contents of which Mr. Stone *had nothing to do*, being merely addressed by him to Mr. Jackson—coming to the hands of Mr. Jackson, whose conspiracy it is necessary to prove. That letter was read as legal evidence, in the cause, and I did not object to the reading of it; but when read, it is your duty to draw the inference from it; and I defy you, consistently with the duty you owe your country, and the prisoner, to draw any inference affecting his life or honour, from the contents of any letter—and this observation goes to almost all the rest of the evidence—from the contents of any letter, which it is *not proved he was ever informed of*.

That last observation, which I trust I need not urge to any man, either of common feeling or of common sense, leads me to state to you why I confine the correspondence of Mr. Jackson and Mr. Stone to three letters, when more have been read. It is, because there are only these three letters, and in these three letters I include the *two lines only* written by Mr. Stone which are proved, by any evidence to have come to the knowledge of Mr. Stone. But I go farther—*all the rest are distinctly proved, never to have come to the knowledge of Mr. Stone*. It is in evidence, that Mr. Stone never did, nor by any possibility could, know one word of the contents either of the letter of the 21st of April written by Mr. Jackson to him; or of any of the letters which were sent by Mr. Jackson abroad, because, as to *that sent to Mr. Stone*, and as to some of them sent by Mr. Jackson abroad, they never reached the place of destination. They were intercepted at the post office,—as to others, they did go abroad, without passing through the hands of any persons in this kingdom, and were abroad by some means or other got at, and are now produced in evidence here, so that it is not left *doubtful* whether *Mr. Stone had any knowledge* of all that volume of paper which has been read, and which, for that reason, I do not trouble myself with observing upon, nor have I taken one tittle of that evidence in my notes; because I feel a perfect conviction upon which I can securely rest the life and honour of that gentleman. I leave it in your hands; you will never suffer it to affect either the one or the other. The guilt of his accomplices (though it is *a step* of the charge against him), no honest man can apply *to him*, without proof that he had a knowledge of the transaction. With that observation I may safely leave *the whole of that evidence* which respects *the conduct of Mr. Jackson in Ireland*, the letters that he wrote, and the papers that he sent, except as to those papers which he sent, that are brought home to Mr. Stone by the evidence in the cause which is the only thing now remaining for me to observe upon. I have hitherto stated the circumstances from which the intention of Mr. Stone was to be collected—for all the evidence which I rely upon is of that nature, *not* pointing to these specific acts of treason, but tending to throw a general suspicion upon Mr. Stone; in order to satisfy you, that the act upon which they rely for the treason which is *the information sent of the state of England*, was sent *with a criminal and not an innocent intent*. The whole purview of the evidence I have been observing upon is of that nature; admissible at all only for the reason I have stated to you—affecting the prisoner, as far as the true import of the evidence goes, and as far as came to his knowledge, I also admit; but *not affecting him* as to that which *never came to his knowledge*—for of all things in the world *a man's* INTENTIONS *can be least collected from that which he never knew*.

Having gone through all the written evidence, what was the act that he did? The act that he did was this—to give his own opinion, and to consult persons (not all of one party and persuasion, as you will find, but persons in whom from acquaintance and esteem he had a confidence) whether the true state of England was not such, as that a representation of it might be made use of successfully, to defeat a purpose which from the letters of his brother, he had reason to believe was formed in France, of making an invasion on this country, the effects of which must have been calamitous, whatever might have been its success. That is *the act* which *he did*.

Now having stated the evidence which tended to a suspicion, that he did that with a *bad intent*, let us consider the *circumstances which accompanied that act*. First, was there any symptom of *conscious guilt*? Was it conducted as dark plots and conpiracies for treason usually are, against the government of a great and powerful country? Were private nightly meetings held in the dark, and in secret places, with persons well affected to the cause, and engaging in the same conspiracy? Every feature of the case is diametrically opposite to every thing that attends foul treason, which is always acted in the dark. *Every step* taken with respect to this act, which is the only one that imagination can state as a specific act applicable to this indictment, was *public* in its nature, with a perfect consciousness of innocence, as far as that consciousness of innocence can be collected. He does not content himself with secretly asking the opinions of his friends, and minuting them down for his own information, and for that of Mr Jackson; which, had he been engaged in the dark purposes of treason, would have answered his object just as well—he could just as well have represented to the government of

France, or any body else, what the opinions of A. B. and C. were, without telling them why he asked that opinion. He was under no necessity of laying himself open to the knowledge of a variety of people, that he was collecting such information, and the object with which he was collecting it; because he could have collected that information, from every one of the parties, better without it. There is not one of the parties, from whom he collected this information, to whom, if he had mentioned it as a matter of conversation artfully and designingly, if he had said "some people are apprehensive of an invasion, what do you think of it?" Is there any one of the gentlemen, who would not have answered that question? There was no occasion to give a clue to this conspiracy. He had no one motive for a disclosure. It was not necessary for his purposes, if these purposes were foul and dangerous. What is his conduct? Instead of acting in the dark, he acts publicly and openly in the day; he goes to persons of high respectability in the country, members of parliament, gentlemen of fortune, many in opposition, some friends to government; he not only asks their opinion, but tells them *what he wants this opinion for*, and *means to do* with it.

He does that, which I think it is impossible to imagine, that any man fit to walk the streets, and allowed to take care of his own affairs, should be such a driveller as to do, if he was engaged in a dark and dangerous plot, and conspiracy of the most malignant treason; he *points out* to them *the very persons with whom he is accused of confederating and conspiring*. He tells them the fact, that an American gentleman was in London who came from his brother; that from his brother, he had received information of a design of invading this country. He wished to counteract it; and he thought it would contribute to that purpose, if he could satisfy them, that it was the opinion of respectable persons, that that invasion would not be countenanced by the people of this country.

Is there any one of these steps he would have taken, if he had been conscious he was acting a part, in a foul and dangerous conspiracy? If there was nothing in the case but this, it would dash down ten times the evidence that has been given in this cause; because you are not to lose all your knowledge of the nature of the human heart; you are not to suppose that men run, with their eyes open, into the fire which is to destroy them. You are not to imagine that a foul traitor, engaged in a treasonable and malignant conspiracy, should *publish* to the whole city of London, should publish at the coal exchange, as I will by-and-by prove he did, in the presence of hundreds of people, the *very conspiracy* in which he is supposed to be connected, the *very treasonable purpose* he is supposed to be engaged in. These circumstances attending *the act*, which is the *only* act that can be adduced as an overt act of any treason against Mr. Stone—these very circumstances *disprove the intention* at the moment that they *establish the fact*.

Gentlemen, the evidence that has been given on the part of the crown, goes much farther in behalf of the prisoner; for it not only proves that, which, by fair inference and argument, is absolutely incompatible with the supposition of a dark, foul, and dangerous conspiracy; but it goes farther, for it proves, as far as human testimoney can prove, the *intention* of Mr. Stone to be *directly the reverse*. We have heard a thousand times, and in a thousand different places, from all authorities, high and low, from the bar, from the bench, from every person who is used to consider the effect of evidence, and the inferences to be drawn from facts and circumstances by the human mind, that we *are not*, without the most clear and cogent evidence to prove it, *to suppose a person's intentions to be diametrically opposite to those which he professes*.

Now to meet that vague cloud of suspicion which has been attempted to be thrown upon those parts of the evidence which I have observed upon, as to the intention of those acts upon which the fate of this indictment rests, you have, proceeding from the witnesses for the crown a large body of evidence to prove the *actual intention* with which the fact was done. You will see what these gentlemen, who have been examined on the part of the crown, as necessary and proper to establish this part of the prosecution, say upon this subject; besides the openness and publicity of the transaction, upon which I have already observed, and which I shall prove by several more witnesses.

Mr. William Smith tells you, that Mr. Stone said, that his brother appeared much alarmed with an apprehension that the French intended to invade this country. It will be said, is there any thing in the correspondence of John Stone, which shows that he was alarmed upon that subject? To which I answer *there is*; for in one of John Stone's letters he says, he conceives that his brother, William Stone, may *correct* Mr. Jackson's views. If these are his views, on commercial propositions, then it has nothing to do with this question; if they are the views since imputed to Mr. Jackson, then *correcting* those views was a *desirable* object in the opinion of John Stone. But it goes much farther—for in one of the letters, speaking of a blank, which was *stated to mean an invasion*, and which undoubtedly, from the context, did mean that, John Stone makes use of this expression, that it may be *averted*. Do we talk of *a blessing*—of an event *we are wishing for* being *averted*? No; that is a term which already shows that, whatever John Stone's interest in France might be, whatever his connexions with the people exercising the powers of government in that country might be, whatever his deluded enthusiasm might lead him

to with respect to the possible effect of those dreadful events taking place there; he had not yet so wholly forgotten the country in which he was born, as to look upon the *invasion*, the carnage, and ruin of that country, as a *desirable event*. Because he does make use of the expressions I have stated, which shows that his mind was not wrought up to the iniquity of wishing that calamity to fall upon his native country; and, therefore, he speaks of it as a *view to be corrected*. He says, he is also *alarmed* at the danger, to Mr. William Stone, and his family, arising from the effects which might ensue from that event.—That is another ground *of alarm*, of John Stone himself, independent of any other. That appears, from passages in two of his letters, where he advises him to sell his property, apprehending the consequences of that invasion, if it should take place. That shows, therefore, that it is a true representation of William Stone, that John Stone *was alarmed* at the idea of an invasion. He states, in one of his letters to his brother, William Stone, that it would be advantageous if his representation of the sentiments of the people of England, respecting an invasion, could be confirmed. Gentlemen, I care not whether you understand that, as *advantageous to the country*, or *to himself*, Mr. John Stone; because it is manifest from other expressions, when he says, "that communication was highly useful to me;" that he had, in France, always taken the part of dissuading an invasion of this country. That is a fact that appears clearly, from whatever motive he might act. Mr. Smith says, that Mr. Stone, the prisoner, expressed himself under a similar alarm; and asked his, Mr. Smith's, opinion upon that subject. Mr. Smith then put him in mind that he heard him express his sentiments. He then stated that he had conversed with Mr. Vaughan upon the same subject, who told him, that he thought there could be no impropriety, in giving his brother that general information he wished. That Mr. Vaughan had given him a paper, containing some of his opinions on that head; and Mr. Smith says he asked *his opinion*. Mr. Smith generally observed, that he thought the opinions in that paper might be very true, or words to that purport; but that the expressions appeared to him in many points exceptionable; which undoubtedly they are. We are not answerable for the general political opinions of Mr. Vaughan; whether well founded or not, Mr. Stone is not to answer. For if there is nothing in that paper that tends to excite the enemies of this country, to any thing mischievous to this country, there is nothing *criminal* in Mr. Stone sending it. But if, on the contrary, it answered the purpose of preventing that invasion, then it was highly *meritorious*.

Mr. Smith, therefore, intimated that there were improper expressions, and advised Mr. Stone to be cautious. He said, he did not mean to make use of the paper, if, on consulting his friends, they should advise him against it. He mentioned, at the same time, *the channel of communication*, which no man connected in a conspiracy would have done, Mr. Jackson, an American gentleman. Mr. Smith says, that he had only a common acquaintance with Mr. Stone, that this was communicated under *no confidence*, Mr. Stone knew that he was a member of parliament, and a man of property, and Mr. Stone said, that "he had mentioned it to some, and intended to mention it to more."

Mr. Sheridan's evidence is still more material on the head of intention, for he says, that Mr. Stone was introduced to him by Mr. Wilson, desiring to communicate to him something that he thought would be highly essential to the service of government, and in a matter which he thought would be of great public service. He then stated what you are already in possession of—that he had the means of communication with his brother; that that communication was likely afterwards to reach the government of France; and that the service he could be of, would be undeceiving them in that particular; giving them a true state of the country, to convince them how little they could expect of any thing like assistance or co-operation, from any description of men whatever in this country. He said he conceived, and hoped, the consequences would be, their abandoning a project evidently taken up upon false information, and that it was expressly stated to be for this purpose (which if it really was, whether discreet or imprudent, proper or not, it was innocent as to this indictment) that he had endeavoured to collect the opinions of several gentlemen, political characters in the country, whose opinions he thought would be of authority sufficient to advance his object. That he then named some of the persons, and, what is very material, he then named to Mr. Sheridan, a gentleman of high rank and character, immediately connected with administration, the late general Murray, uncle to the duke of Athol, who is since dead, and of whose testimony, by that misfortune, we are deprived. Mr. Sheridan said, what every man of sense would have said upon that subject, that it made a deep impression on his mind, as to the fairness of Mr. Stone's intentions.

Then, gentlemen, the same kind of evidence is given by Mr. Towgood, Mr. Rogers, and lord Lauderdale, to all of whom he communicated it without reserve, stating to them all, his channel of communication; the American merchant; every circumstance; keeping back nothing; cloaking himself under no disguise. —*All* of them *agree* that he made the communication without reserve. Selecting, as evidence for the crown, those gentlemen, who had not entertained a complete approbation of every expression contained in this paper—The circumstance of his having mentioned to general Murray;—and, if it is necessary to go into much evidence on that head, I can add

others connected with administration too;—but the circumstance of his having mentioned it to general Murray, and the situation in which that gentleman stood, before his death, goes a great way to answer the only objection I have heard, with any thing like common sense stated in this part of the case, and that is—Why did he not communicate it to government? To that I am ready to answer, that he would have done *more wisely* if he had. I should have been one who would have given that opinion. I am not sure, if there is any credit to be given at all to human testimony, that he would have done *more honestly*, though I think he would have done more wisely. I think he would not have acted more honestly, if there is truth in this testimony, because his object was to prevent the French from attempting an invasion, and, by the evidence on the part of the crown, you learn that, as far as prepared government to counteract that invasion—as far as they by any act could prevent it, he had already given that information, for, so early as in April, 1793, he had given distinct information to the minister of the country; he had given *true information*; for it consisted, as appears by the evidence in this cause, not only of the general intention in France to invade this country, but of *the very points* to which he had received information that they meant to direct that invasion.

The minister of the country, therefore, had near a twelvemonth's notice to guard against that intention of France, which Mr. John Stone still continued to persuade Mr. William Stone existed; and therefore Mr. Stone, having given administration all that information, which was necessary for preparations for defence; which was necessary to defeat that expedition should it be attempted; Mr. Stone was doing a meritorious act to *prevent the attempt itself*, for the reasons I have already stated to you; because the attempt itself, must have produced calamity to the country, if made at all, however well prepared government might be, from information previously given by Mr. Stone himself; and what, in the name of God, would lead him to give the minister *true intelligence* of this project, if he had a traitorous purpose to assist the French in the progress of this war?.

But it is said, "Why did he not give farther information to the minister?" Why, a farther part of the evidence has been supplied by the crown upon that point; for, upon reading that letter from Mr. Stone to Mr. Pitt, from whence it appeared that he gave important and true information, not only of the design of an invasion, but of the points to which it should be directed, Mr. Pitt's answer is read, in which, after thanking him for the communication he had made, he civilly declines any farther communication on the subject. Mr. Pitt tells him there is no occasion to give him any farther trouble at present. What encouragement had Mr. Stone, from this answer of the minister, to make farther representations to government? He had told them the material facts; he had no encouragement to go farther; he was not well received. The cloud that had been thrown over his brother's conduct I do not blame the minister, for that, I think, he was right;—but the cloud that had been thrown over his brother's conduct, had procured a cold reception to the intelligence, important as it was, communicated by the gentleman at the bar. From that cold reception, and from Mr. Pitt's declining any farther communication upon the subject, I say he had no encouragement to go to the minister again; but he did the next thing to that, he communicated to general Murray, in the confidence of government. If *he* thought it important, he could communicate it to the minister, and it would, coming from him, be received not only with civility, but with attention. Coming from Mr. Stone, he had reason to suppose it would be again disregarded.

Gentlemen, there remains, I think, but one other material observation upon the evidence that has been adduced by the Crown, and that is, the comparison that has been made of the extracts communicated by Mr. Stone to Mr. Pitt, with two of the letters from which they were extracted. The inference meant to be drawn is, that that was merely a colourable communication to Mr. Pitt, and that he kept back several of the material parts of these letters, from which extracts had been taken.

Now, if you have any doubt whatever in your minds upon that or any other subject, which I flatter myself you will not have; but, if you think it necessary to take the trouble of reading through the whole of these letters, I believe you will find that he has not given rise to any such imputation, because it is manifest that independently of the welfare of the country, to which I will ascribe confidently the communication of the letter of the 18th of March,—which is the only very important communication made to Mr. Pitt,—the communication of the 18th of March subsequently confirmed and explained by Mr. Stone's letter of the 18th of April—Independent, I say, of this, Mr. Stone, in these other communications, was impelled by two motives; first, perhaps, a little affectation of importance of possessing great channels of intelligence, that might be useful to government;—My client will forgive me if I should think some little vanity of that sort might operate in his mind, perfectly innocent as it would be:—But there is another more important object, which he thought it right to avail himself of, at the time when he communicated that letter, that he should take that opportunity of access to the minister, to give him extracts of those parts of his former correspondence which appeared likely to set his brother right in the opinion of government, feeling that regard for his brother which is

ıa l, which it was laudable for him to i lid not carry him to the extent of ny thing injurious to his country, he it right to avail himself of that opportf communicating to Mr. Pitt extracts ts of his letters as seemed to exi ituation, in the manner most fabie to John Stone, and to be most likely t John Stone in a better light with Mr. than he stood before; and that will act (if you look at the passages left out) for being left out, and not any view of conıg them to the injury of the public. n Mr. John Stone makes use of that imer, unpatriotic expression, speaking of the ıch government by an Englishman, of emselves," he strikes *that* out, and puts "*the French*," giving the substance of the information, and altering only the expression that would tend to prejudice his brother in the opinion of the person to whom that communication was made.

With respect to other parts of the events spoken of in the second of these letters, which are not extracted, if you take the pains to look at them, you will find that these events are described in such language as necessarily must give an unfavourable impression of the writer; and, therefore, it was not within the scope of his object, which, while it made the communication, was manifestly to exculpate his brother, to give these extracts which would have produced a contrary effect. But when you find that in the same enclosure with this, the whole important information is given relative to the invasion of this country (the very information, the suppression of which might have promoted that design Mr. Stone is accused of promoting), when you find *that* is *communicated* and *not kept back*, you cannot, whatever may be the reason of these reserves in the extract, impute them to any design injurious to his country.

Gentlemen, I have to apologize to you for the length of time I have taken; but I am sure, that if you fancy yourselves for a moment in the situation in which I stand, the anxiety which your minds would feel, lest a gentleman in the unfortunate situation in which my client stands, should suffer by any omission of yours, would have induced you to have trespassed as I have done upon you, in stating every fact and every observation that appeared to me either necessary or material, in order to establish the innocence of my client.

I am sure, had it been my own case, I should not have thought it necessary to have troubled you so much. For, had it been my own case, had I stood in the unfortunate situation of that gentleman, possessing composure enough of mind to have put the evidence in this cause in the same light that I view it now, I think I could have ventured to trust my own life, I dare not venture to trust that of another man, in your hands, as the case was left on the part of the prosecution. For though there is a large body of evidence to support the first step of this prosecution to criminate Mr. Jackson in a considerable degree; to criminate Mr. John Stone to a considerable degree as to the propriety of his principles and conduct; I venture to say when you come to separate this evidence, that of which the prisoner has *no knowledge*, from that of which *he has*, there is not one tittle of evidence which will authorize you to say, that any act done by the prisoner, was done *with a treasonable intention against the government of this country*.

Gentlemen, for the reason I have already given, why I dare not omit any observation that occurs to me, so I cannot omit any evidence that it appears to me can have a possi- tending to remove a doubt which the ..ion of the most doubtful man can en- upon the subject. I shall, therefore, la re you evidence which will rather be ir ..uboration (so much has the evidence fo Crown been in favour of the prisoner) of u vidence than new evidence. I shall, therefore, call witnesses, in addition to the five gentlemen called to the same point by the crown, to show you the publicity with which Mr. Stone at all times communicated the correspondence of his brother in general; and, with which he communicated these papers in particular, and not only the papers, but the intention, and the use that was to be made of them without reserve, upon the most public occasion, to friends and to strangers, on the coal exchange, publicly at noon day, in some instances; in all without reserve; in all in a manner absolutely and totally incompatible with a consciousness of the guilt of high treason.

I will then conclude with calling witnesses, as many as you will choose to hear, of the most respectable description, to the character of this gentleman; all of whom I am told will concur in stating to you, that he is a man of a description whom you will believe incapable of entertaining an abominable intention against his country—a man, who (whatever his particular opinions may be with respect to the politics or parties of the hour, or with respect to the forms of particular governments) is loyal to his king, and well affected to the constitution of his country.

I will conclude this long address with which it has been my duty to trouble you by laying before you that character, and by observing that in the whole of the conduct of this gentleman every thing has tended to prove a consciousness of innocence, and a rectitude of intention. I am sure, under the circumstances, the critical situation in which the attorney-general has stated this gentleman to have been, you will suffer no imprudence or incaution, which is not accompa guilt to the extent of this indictn any influence upon your verdict.

EVIDENCE FOR THE PRISONER.

Mr. *Nathaniel Harris* sworn.—Examined by Mr. *Erskine.*

Do you know the prisoner at the bar, Mr. Stone?—I once was in his company, and only once.

Do you remember his reading a paper?—I do.

Do you remember the general purport of that paper?—I remember a part of the paper which was read. Being at that time fearful of an invasion, I said, I have always been averse to this war, but I would wish to keep the French at arms length; I hope they will not come here. In consequence of which, he read a paper. The other part I do not recollect; but this I well remember—he said in that paper, to the best of my recollection, it would be absurd to make an invasion when the majority of the people in this country are against it; it would answer no purpose. When he had finished the paper, I said, I think you have done your country a service; and if Mr. Pitt or Mr. Dundas knew of it, I think they would thank you.

Was this read publicly or privately?—In a private room. There were three ladies, and two gentlemen. I never saw Mr. Stone before, and but once since.

Was this read under any injunction of secrecy?—No; it was only read in consequence of my question to satisfy me as a timid man.

Mr. *Attorney General.*—I have no question to ask this gentleman.

Mr. *Robert Ward* sworn.—Examined by Mr. *Erskine*

Do you know the prisoner at the bar?—Yes.

What is your situation?—I am a coal-factor.

How long have you known Mr. Stone?—I think I may venture to say ten years.

Do you remember his reading a paper, or giving you a paper to read?—He did not give it me, I believe.

Did you hear it read?—I have heard extracts from letters read.

What has been Mr. Stone's character since you have known him? Was he a loyal subject?—I cannot answer generally to his character, only that I knew him in business; he was, in credit with me, perfectly so.

Mr. *Attorney General.*—I have no question to ask this gentleman.

Mr. *Samuel Toulmin* sworn.—Examined by Mr. *Erskine.*

Do you know Mr. Stone?—Yes.

Do you remember his reading at any time in your presence, publicly, letters which he used to be in the course of receiving from his brother in France?—No, never.

What was his character when you knew him?—Perfectly good.

Mr. *Attorney General.*—I have no question to ask Mr. Toulmin.

Mr. *Nehemiah Stokes*, sworn.—Examined by Mr. *Erskine.*

You are a clerk, I believe?—Yes.

In what house?—Down and Company.

Do you know Mr. Stone?—I do.

Have you ever had an opportunity of hearing him read, or have you had from him to inspect yourself, any letters from his brother?—I do not exactly recollect the dates; but, since his brother has been at Paris, Mr. Stone has been in the habit of coming to our house; and he has repeatedly read those letters in our counting-house. He has afterwards left the letters with me for a day or two, till he came again, and I have read them.

Whom does the house consist of?—Richard Down, Henry Thornton,———

Mr. Thornton the member of parliament?—Yes. I have repeatedly asked him whether he had any letters? He has said, I have; here, you may take them, and give them me when I come again.

Mr. *Attorney General.*—I have no question to ask this witness.

John Free, esq., sworn.—Examined by Mr. *Erskine.*

Are you a partner in the house of Down and Company?—I am.

Do you know Mr. Stone?—I do.

Have you seen Mr. Stone, from time to time, since his brother has been in France?—I have.

Do you know of Mr. Stone's having been in the course of corresponding with his brother, and receiving letters from him?—I have been informed so by him.

Have you had any opportunity of seeing those letters from time to time, or any of them?—I have.

Have those letters been read to you, or at any time left with you?—I have heard extracts read, and they have been left with me.

Mr. *Attorney General.*—I have no question to ask Mr. Free.

Mr. *George Thompson* sworn.—Examined by Mr. *Erskine.*

Do you know the prisoner?—I do.

How long have you been acquainted with him?—Twelve or fourteen years.

Have you known him since the time his brother has been in France?—I have.

Do you know, from him, that he had been in any correspondence with his brother?—I understood that he was.

Had you, at any time, any part of that correspondence read to you, or in your presence?—He has frequently read letters upon the Coal Exchange, which any body there might have attended to, if they were not otherwise busy. I have sometimes attended to them, sometimes not.

You have seen him reading these letters, in

the most public manner, upon the Coal Exchange?—Yes; any body might attend that would: and those who were not busy generally did attend.

The Coal Exchange is a very public place?—Yes.

And he was in the course of reading, upon the public Exchange, letters he had received from his brother?—Yes; when forty, fifty, or sixty people were present.

What has been the character of Mr. Stone?—A very respectable character.

Did you ever discover in him any thing dangerous?—Never in my life; he is a very worthy acquaintance as any I ever had.

Mr. *Attorney General*.—I have no question to ask Mr. Thompson.

Mr. *William Parkins* sworn.—Examined by Mr. Serjeant *Adair*.

What is your business?—A coal merchant.

Are you acquainted with Mr. William Stone?—I am.

Do you remember his reading any letters received from France, to you or other persons in your presence?—Yes, I have heard him read one or two letters during the time in the Coal Exchange, meeting him there as a buyer.

In the hours of business?—In the hours of business.

Did he read them under circumstances of concealment or openly?—Openly.

Do you remember any particular papers being shown to you, or any body else, by Mr. Stone about the dispositions of the people of this country?—Yes, I remember hearing Mr. Stone read some part of a letter, wherein he said that it was a very ridiculous thing in the French to attempt any such thing as an invasion, for that the people of this country would rise in a mass.

Was that part of the substance of the paper you heard him communicate?—It was.

Was this read openly or under any circumstances of secrecy?—Quite openly—I was present.

Were there other gentlemen present?—I do not recollect who, but there were some gentlemen about the fire place at the same time.

And this was read on the Coal Exchange openly, in the hours of business without any concealment whatever?—Yes.

How long have you known Mr. Stone?—I believe seven or eight years.

What opinion have you of his character?—As a mercantile man I always respected Mr. Stone.

Did you ever hear him express any sentiments dangerous to the safety of the country?—No, I never did.

Any sentiments of disloyalty to his majesty?—I never did.

Mr. *Attorney General*.—I have no question to ask this gentleman.

Mr. *Henry Smithers* sworn.—Examined by Mr. Serjeant *Adair*.

You are a coal merchant I understand?—I am.

Do you know Mr. Stone?—I do.

Do you recollect his reading to you or to any body in your presence, political letters respecting the state of France?—I recollect his having been in the habit of doing that repeatedly, with many gentlemen round him in such a manner that they might see entirely the letters so read, without any reserve at all.

I need not then ask whether he made any secret of his correspondence with his brother in France?—I do not know that he read all the letters he received.

But of his general correspondence—did he make any secret of it?—I never saw or knew of any.

How long have you known Mr. Stone?—Since March 1786.

What is his character?—I never conceived that Mr. Stone was at all particular in his politics, not so much so as some others that I know.

Did you ever hear him express any disloyalty to the government of his country?—I have heard him express his disapprobation of particular parts of the administration of the country.

Mr. Serjeant *Adair*.—God forbid that opinions of that sort, whether right or wrong, should be thought treasonable.—Did you ever hear him express any disloyalty to the king or the government of the country?—Never.

Or any opinion dangerous to the public safety of the country?—Not to my knowledge.

Mr. *Attorney General*.—I have no question to ask this gentleman.

The Reverend *Thomas Taylor* sworn.—Examined by Mr. Serjeant *Adair*.

How long have you known Mr. Stone?—Almost twenty years.

Have you known him intimately during the course of that time?—I have been in a course of friendship and intimacy with Mr. Stone.

From that knowledge of him, what has Mr. Stone's character been during that time?—I have never observed in Mr. Stone's conversation or in his conduct, any thing that could at all tend to treasonable practices.

Did you ever know him express himself in terms of disloyalty or disaffection to the king or the government of the country?—I never observed any thing of that kind.

Mr. *Attorney General*.—I have no question to ask Mr. Taylor.

The Reverend *Rochemout Barbauld* sworn.—Examined by Mr. Serjeant *Adair*.

How long have you known Mr. S[illegible] an[illegible] years I believe [illegible] knowledge of

racter has he borne?—He seemed always to me to be a sensible man, and very moderate in his political opinions.

Did you ever hear him express any sentiments of disloyalty to the king or the government of his country?—Never.

Any opinions dangerous to the peace and safety of the country?—Never.

Have you known him well for that length of time?—I have not been intimate with him.

But you have known him during that time? I have.

Mr. *Attorney General.*—I have no question to ask this gentleman.

Mr. *Joseph Chamberlayne* sworn—examined by Mr. Serjeant *Adair.*

How long have you known Mr. Stone?—I believe about twenty years.

What are you?—A shoe-maker by trade.

Have you known him well?—Yes.

During that time, what has been his character?—A very fair honest character as far as I have known.

Have you ever heard him make use of any expressions of disloyalty to his majesty or the government of the country?—Very far from it, so far from it that he joined with me in a military corps at the time of the riots, and was always a friend to order and good government.

Have you ever heard him read letters from France, respecting political subjects from his brother?—I recollect he read one to me.

Was that under any injunction of secrecy?—I do not recollect that it was.

Mr. *Attorney General.*—I have no question to ask Mr. Chamberlayne.

Mr. *John Blunt* sworn.—Examined by Mr. Serjeant *Adair.*

I believe you are a coal-factor?—I am.

How long have you known Mr. William Stone?—Near twenty years.

During that time what has been his character?—I always considered him a respectable character, and that he was a friend to this constitution.

Did you ever hear him utter any expressions of disloyalty to the king and constitution of this country?—No, quite the contrary; I have heard him say that a man who wished for any alteration of the constitution of this country must be a mad man or a fool.

Did you ever hear him read any letters from his brother?—Yes I have very publicly too publicly I thought for his brother's safety. I thought that he would endanger his brother's life.

Mr. *Attorney General.*—I have no question to ask Mr. Blunt.

Mr. *John Kiddell* sworn.—Examined by Mr. Serjeant *Adair.*

How long have you known Mr. Stone?—I have been upon very friendly terms with his family for a great number of years—I have known Mr. Stone from his childhood.

Have you ever heard any expressions of disloyalty from Mr. Stone towards the king and government of this country?—Never, on the contrary I always thought him bred up in principles favourable to this constitution and to the establishment of the house of Hanover—I always considered him in that light.

Mr. Serjeant *Adair.*—It is going over the same ground again, and in a cause which has already lasted so long, I will not trespass on the time of your lordship by calling any more witnesses.

The Honourable Thomas Erskine:—* Gentlemen of the jury;—We were anxious on our parts, for the prisoner, that this case should be thoroughly investigated and understood; and, as we can have no reason not to wish that justice should be done to the prosecution as well as to the unfortunate person whom we represent, we resolved not to go on with many witnesses to prove what had already been established, wishing that you should not only hear *me* but the counsel for the Crown *equally*, while yet your understandings were sufficiently fresh to embrace all the complicated matters which belong to this important trial.

Gentlemen, I have been revolving in my own mind what course I should pursue in standing up before you this day;—and I confess that if I were counsel for myself—if I had been arraigned of high treason at this bar, and had asked my hon. and learned friend to do that duty towards *me* which he has done for *our client*, and being of the profession had reserved for myself that indulgent privilege which the laws of our wise forefathers have given us to observe upon the whole evidence in my defence, I should have remained silent, I should have thought that I best consulted my own safety by not taking off any thing from the most impressive address that it was possible for any man to offer to a jury in a case which required all the learning and ability which my friend so amply possesses; but standing as I do *for another*, I cannot pursue that course, I must therefore endeavour to make you understand, as well as I can, *the principles*, and examine with as much care as possible *the evidence*, by which alone your verdict ought to be governed.

The first matter for consideration in all courts upon all occasions, is, to see distinctly what the charge is, and for the honour of the crown be it spoken (and of my worthy friend the attorney-general who opened to you this prosecution), there is nothing left for me to vary or contradict; he made no concessions

* I have been favoured with a correct report of this speech, which I have substituted for that contained in the printed trial, which was in many respects faulty and inaccurate.

to the prisoner;—if he had, he would not have done his duty, because the counsel for the crown are not to plead for the defendant, but to state with ability and precision the case of the adverse party;—but what I honour the attorney general for is, that though he made no concessions, and stated nothing differently from what must afterwards have been summed up by the court, yet he did not attempt to bewilder your understandings, by leading you away from the charge, but stated the case with an anxious precision which does honour not only to himself, but to the laws of the country he represents; since when we are upon the subject of invasions, and when the whole object of the prosecution is (as must be acknowleged) to give stability to our government and to prevent it from being overborne by foreign force, what can make our subjects cling to it so strongly—what can more unite them in the manner in which it seems admitted that they are united, than to compare the mildness and beneficence of our institutions with those tribunals of blood which we might expect to be erected here if an invasion of the nature spoken of were effected?—What can so well support a government as a just, mild, indulgent court of justice hearing with equal complacency the prisoner and the officers of the Crown, when not conducting themselves so as to stink in the nostrils of posterity like those in other times before our happy constitution was vindicated and established.

Gentlemen, there is no question of law in this case,—The charges are two in number—compassing the king's death, and an adherence to his enemies:—but it is not sufficient to state the guilt of the one or the other as existing in the imagination of the heart; it is necessary to charge the OVERT ACT—which is the manifestation of the treason the prisoner is called upon to answer.

The charge made upon the prisoner is, that he has fallen off from his allegiance,—from the love of his country and its magistracy, and devoted himself to the destruction of both—and the record then charges what he has done as the manifestation of that traitorous spirit which the law arraigns and punishes.—For this purpose the indictment appears to me to be ably and properly drawn, and whatever the result of the cause may be, we make no complaints of the crown or the government but come here—as we have a right to do—to defend ourselves.

The indictment charges the prisoner with being engaged in a conspiracy with his brother residing in France, and with a person of the name of *Jackson* now dead; which conspiracy had for its object to accomplish, as is charged, an invasion of the French upon the dominions of the king both here and in Ireland. There are other counts stating it more generally, viz. to afford intelligence and make communication to the enemy of the dispositions of the king's subjects with regard to their own government and to that of France; and the indictment is drawn with this double aspect, because the principal overt act as far as it can be connected with any evidence is, *not* that Mr. Stone *invited* an invasion, but that on the contrary he with anxiety endeavoured to avert it. The indictment then is drawn in order to embrace this case. That the prisoner at the bar did afford that communication to the enemy—not for the reasons which he gave to the witnesses—not for the reasons which he gave when he prepared the paper—not for the reasons which we who are his counsel assign for his conduct, but that he did it in pursuance of a previous confederacy and conspiracy with those who exercised the powers of government in France in order to inform them that their invasion would not be successful; to point it to another place and to a better occasion, and that he did it, shall I say how? No—I need only have recourse to what fell from the attorney general, following his correct account of the accusation; viz. that the French government, intending an invasion at the end of the year 1793, employed Jackson to see whether England might be successfully invaded, and to examine the state of Ireland also.—That this man was sent through Hurford Stone at Paris and the whole evidence is pointed to establish that the prisoner *knowing Jackson to have come over on this mission received him and assisted him in the treason.* There can be no doubt, continued the hon. and learned gentleman, that if these overt acts as laid in the indictment are proved, and proved to have been committed with the intention charged, that proof will support both the charges of high treason.—SO SAY I, WHO AM THE PRISONER'S COUNSEL; for if with the intention of averting an invasion, *not for the benefit of England but of France*, that she might come at another time with better preparation, and with accumulated force, he said or did any thing, traitorously looking to the destruction or danger of his own country, it would undoubtedly, be not only an adherence to the enemies of the king, but an imagination of his death, since his death would be but too inevitable a consequence of such a successful adherence.

The attorney-general then pursues the matter thus:—And I conjure you, gentlemen, by all that is sacred, to attend to his words, upon which I put my whole cause, as I shall plead it for the prisoner—that if the evidence satisfies you, that Jackson was here for the purpose of informing the enemy from what enterprises they should refrain, and what they might undertake for the benefit of France, the prisoner cannot be delivered from the charge in this indictment, *if he knew Jackson's views, and gave him aid, countenance, and assistance.* Now, this is just what you would have been told hereafter, that it was your office to decide. You have already heard it from my learned friend; you now hear it from me, and must ultimately hear it from the

Court: but if you had not thus heard it in the earliest stage of the proceedings, your understandings might have been bewildered, and you might have been imbibing the poison of collateral matter, unconnected with the merits of the case, and your consciences might have been ensnared.

"Gentlemen, the accusation is of the highest nature (I speak now again almost the words of my honourable and learned friend)—the highest offence that can be stated in an English court against an English subject; and this truth ought deeply to impress you with the difficulty of the duty you have to perform, since, if we consider the interest that every Englishman must take in the security of his country, it is almost too much to expect that your imaginations may not be affected and your minds inflamed, leading to a kind of proneness to connect the person charged with the offence itself. Abominable as any attempt upon human life is, this constructive attack upon the sacred person of the king, is infinitely more wicked and dangerous, inasmuch as his safety is interwoven with the great fabrick of the state; but it is no disloyalty to the king to say, that this species of compassing his death, is an infinitely more dangerous and fatal crime than *a direct attack upon his person*; because, in that case, though the magistrate might fall, the laws might remain; but he who invites a foreign enemy into the land, is a traitor indeed; he lays prostrate at once all that the wisdom of our ancestors had built up, during ages, for our protection: he exposes our liberties, and, what ought to be dearer to us than even our lives, the liberties of those who derive from us their existence, to the ignominious bondage of a foreign power, and the whole property of the country to the destructive pillage of the most regulated and best-conducted war. How must I suppose then that *you* feel upon this subject, when I protest that, in speaking only of such a crime and its consequences to our country, *I* almost forget where I am, and the duty I owe to the person who is now under the imputation of it? Is it too much to say, then, that, in the same proportion, you ought to demand a proof corresponding with the enormity and the improbability of the offence?

Where then is there any proof of this description? What are the facts in evidence, not brought forward by us, but by the attorney-general himself? He has called into court several high and honourable men, and has selected them principally from amongst those who are in opposition to the measures of those who are at present entrusted with the administration of the government; yet they all tell you, with one accord, what the attorney-general must know in his conscience to be truth, that if France were to invade England, all England would rise in a mass against her; that however men may be split into parties—though some may hold higher than others the popular part of the constitution, as thinking it struck at and oppressed—though others, on the contrary, may think the crown rather in danger—though others, again, may hold too high the aristocratical branch of the constitution—however, in short, the opinions of men may and must be divided in a free country, where they are constantly engaged in discussing opinions concerning government, yet—yet what?—yet, as against *France*, ALL would be united.

Then what is the proposition you are desired to support to-day? It is *not* that Mr. Stone is guilty of a crime, of which many others may be guilty, and which may beset other men with temptations, but they take Mr. Stone as an exception out of the whole mass of English subjects. They give in evidence, and profess their belief, that all England would rise as one man against France, *but not* MR. STONE. They single *him* out, and set him upon a pinnacle, and say—Although *all England* would rise in a mass to defend it, yet *you, Mr. Stone*, are a traitor, who would not rise; *you, Mr. Stone*, are singly a traitor, *who alone* felt an interest in the destruction of your country; but having *no one in it* to conspire with you, were driven to pick out a man in France, not a native of England, but of Ireland, residing in France, to join you in a scheme, which not one man in your own country would support. Am I then asking you to reject such evidence as the law ought to accept, according to the principles of human reason, which is the foundation of all testimony? Do I claim that the prisoner should be acquitted by the rejection of such a proof? Certainly not. My proposition is, and from which I cannot be removed, that there is an improbability here so strong, even upon their own showing, that you must have proof to oppose it above all question; proof which leaves no loop to hang a doubt upon; which compels you to contrast one of your unfortunate fellow creatures with all that breathe the same air with him—which compels you to separate *this single tare*, and to pluck it out from the close-connected wheat-sheaf, to which all the rest of the country is by themselves likened and compared. Surely, gentlemen, before you could devote a man to ignominy and to death, the presumption of guilt must be as strong, as in this case the presumption of innocence. The attorney-general does not ask you to reason yourselves into an opinion that the prisoner is guilty, but has said, on the contrary, that every body must receive great satisfaction if you shall be able to acquit the prisoner, and will go out of court happy at the event; and it is the most exalted principle of English justice, that those feelings should be your's also. Let me examine, therefore, whether the crown has made out such a case as you are not able to resist; that you can see no road out of, nor reconcile with reason the innocence which I ask you to pronounce. To palliate the weakness of the accusing evidence, you are reminded, that

crimes do not admit of the same species of proof which accompany contracts. Certainly they do not; and that very observation goes in a manner at once to the acquittal of my client, on the principle of what is said by our judges every day—*Crimes* shun the light; *contracts*, which are innocent, are made in the light.—*Crimes* are concealed, so as that justice shall have no clue to follow them through the various connexions by which alone they can be detected; contracts have witnesses to them; whereas you never are to expect publicity in crimes, which can have no security but in the dark. Be it so—since this act had nothing of secrecy thus admitted to belong to crimes. It was done in the open face of day, and gloried in as merit, when it was about to be publicly committed. When a man has committed a treason, or any other crime, it will certainly not do for him to go upon the Royal Exchange to proclaim it; but *here*, before the act was done, and while it was only in agitation, before he had sent over the paper, or any communication whatsoever, we find Mr. Stone going publicly to the places that have been stated, and consulting the most respectable persons upon the subject. Surely this demonstrates, that he could not possibly have conceived that he was doing any thing inconsistent with his duty. I do not mean to contend (and it is unnecessary that I should) that it is an act either wise or advisable, or, strictly speaking, within the privilege of a mere private man, to do good in this manner to his country. I am perfectly ready to admit, that it is always the safest and properest course, if you know of any matter of that description which can serve your country, to go at once and make it known to government, which, by adding your information to others they were in possession of, might use it for the public service; but we are not examining to-day the discretion or propriety of Mr. Stone, I am not asking you to put a wreath around him for a benefit done to his country, because, however I may think that, as an honest man, he not only meant well, but was doing well, yet my business to-day is, not to call for your particular approbation, or to desire you, by your verdict, to sanction what he did as a matter for imitation, but to determine only upon the evidence, whether he acted with good faith and honesty; whether, taking him to be right or wrong, he meant what he said, and acted for the reasons he professed; or, on the contrary, from the traitorous motives which are charged by the indictment.

The attorney-general has truly said, that this question must be decided, as all such questions must, by looking not merely at the evidence, but by measuring it with the safe standard of the human character; and he truly tells you, that you cannot judge of what any man has done, nor correctly examine his conduct, but by comparing it with the general conduct and character of man; and upon that principle he asks, whether you can conceive that any man could have so conducted himself, but from the criminal motive which he suggests? Now, I close with the attorney-general upon *that*; and be the cause tried upon *that*. I maintain, that it is impossible for any man, who looks at this whole transaction, to refuse to say, that if Mr. Stone be guilty of the act charged upon this record, he has conducted himself in a manner that has no parallel, to which human experience can give us nothing equal or similar, because no person ever so conducted himself before; and it is impossible, therefore, upon his own principle, to say that Mr. Stone is guilty, unless he had established his guilt by circumstances so cogent and so conclusive, that all appeals to reasonings and to the analogies of human life and nature, must vanish, under the clear and absolute conviction that must follow from facts.

If the attorney-general had done as some officers of the crown in former times have done, he might have conducted his case very differently, and more unfavourably for the prisoner; but he could not so conduct it, because he can do nothing that is unworthy. Suppose he had laid down the paper which has been read in evidence, which I will call, if you please, Mr. Vaughan's paper, or the paper copied by Mr. Stone, with some variations from it, and had said, I will prove upon you, Mr. Stone, that you prepared this intelligence concerning the state of this country, whilst a person was here under your protection who was so far connected with France as to have been hanged here for high treason, and who was also in correspondence with your brother, for whom this intelligence was intended, then living and domiciled in France, and under the protection of her government, and I will leave *you* to explain this matter; and then when we came to offer our evidence in explanation, he had said, this is but the *prisoner's explanation*, and is therefore no explanation at all.—But, gentlemen, I stand upon the evidence of the crown, and you must take it *altogether*—I beg this may be attended to.—What is the evidence against Mr. Stone? The evidence is *not* that he drew up a paper upon which you might have been desired to collect from the act itself *quo animo he did it*;—If the cause had been so conducted, the paper *(for a time at least)* must have spoken for itself, and with what mind he did it, must also have been collected from the paper, because there would have then been no evidence to explain or qualify his intention, except that which the writing itself furnished—but that is not the course in which the cause *now* stands—The proof is, that Mr. Stone informed several respectable persons that an American gentleman had arrived here from France; that an invasion from thence was meditated; that he publicly expr
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the invasion were successful or unsuccessful; and that he thought he had it in his power to avert that calamity.—This is the account given by lord Lauderdale, by Mr. Sheridan, by Mr. Rogers, by Mr. Towgood, and by every one of the witnesses whom *the attorney-general has called;* and you will recollect that this was not an account given of what a man had said in vindication of *an act he had done*, but the motive assigned for one which he was about to do.

I do not know which of my learned friends is to reply to me, but on whichever of them that important office is cast, I desire to have this distinctly answered.—I say that in this view of the case, the crown cannot have a verdict but upon this principle—We have proved the act you have done, but also certainly your declaration at the time you were doing it, that you were acting from a motive highly honourable, and we admit from our evidence (for we cannot contradict our own witnesses) that you held this language before any act was committed.—But then we say *all this was colour;*—and no doubt, gentlemen, they have a right so to argue it, but then, to support such an argument the *onus probandi* is shifted from me upon them:—They do not lay it upon me as if they had only proved the paper, leaving me affirmatively to prove a motive which the paper itself might not have established, but like just and honourable men, knowing what the truth was, they would not deprive the prisoner of the just advantage which belonged to him, *and therefore the bane and antidote came together.* The act of which they must desire you to take the worst construction, is not laid nakedly before you to collect that construction from itself, the negative of which it might not be in the prisoner's power, consistently with the law so clearly to produce, but they give you the whole transaction from the beginning to the end, which manifestly shows that the prisoner acted from a motive which I maintain to be no more like treason than any other crime in the whole catalogue of offences, being more like indeed to some virtues in a very different catalogue: because it is an act of merit, and though not so according to the general policy of a state, is at the very worst the act of an honourable man, mistakenly zealous for his country's service. Then let me tell the learned gentleman who is to reply to me, whoever he may be, that he has a heavier burthen than he can walk under—viz. to show that the whole testimony of the crown's witnesses is false:—That they were themselves imposed upon by Mr. Stone, who was acting from the motives charged by the indictment, and not from those given in evidence by themselves. Nevertheless they have unquestionably a right to attempt this; but they must do it, not merely by suspicion, not by throwing a cloud over us, for *they* as I have just said to you, and not I, are to maintain the affirmative proposition, and it is for them to maintain it, as lord Coke, the oracle of our law, requires of them—Would to God he had resembled my honourable and learned friend when he came to put his own law in practice in criminal courts of justice!—but still he who was the highest authority has left this upon record as the law—That the prisoner must be convicted "not upon conjectural presumptions or inferences, or strains of wit;" for, as he truly says, the words of the statute of Edward 3rd are not that the prisoner shall be *probably* attainted, for then a common conclusion might serve; but *provably—i. e.* in the full and unerring force of demonstration—not of course that which belongs to mathematical science and matter, but that *moral demonstration* without which no honest man could sleep after having delivered a verdict which must lead to the consequences of yours.

Now, before I enter upon the particulars of the evidence, which I shall come to by-and-by, let me examine by what magic they are to do this, when the prisoner stands upon the act he has done as explained by himself, upon the crown's own evidence *before it was consummate*—Was the act which he did beneficial to his country, or the contrary? Will any man dare to say that it was not beneficial, notwithstanding it certainly would have been more regular to have made a communication to those who have the administration of the government, although I think that what was hawked about publicly at the Coal Exchange would probably find its way there very soon. Will any man, I repeat, contend, that it was not beneficial to this country? If there could be found any man hardy enough to say so, he would be, like other bullies, the last man to be found, if an invasion actually happened.—He must be a very shallow man indeed, who does not contemplate the danger at any time, but above all, in the year 1794, compared with the period in which we live, if an invasion had been accomplished by France. Gentlemen, would it have been any consolation to have seen myriads upon myriads rising to defend their country, mowed down like the grass in the autumn, though rising up again, and going on from exertion to exertion, and from re-conquest to re-conquest? Would it have been an advantage that an hundred thousand Frenchmen should have landed in England, because the united loyalty and bravery of Englishmen would have driven them back? They who recollect the condition of a country where paper credit is subject to every blast, and although the great body of our people feel how inseparably their own interests are combined with the support of the sovereign and the laws, yet consider how much blood must have been shed, and how much might have been put in hazard by treachery; for money, gentlemen, can unfortunately purchase disaffection, as long as men are men—Who can state what might have been the general consequences if this great capital had by a sudden and successful

effort been pillaged, though the next moment the pillagers had been destroyed? Have they brought any military or naval men, or any officers of state, to lament the misfortune that befel England from the French not being permitted to land here, and to swear that Mr. Stone had ruined the prosperity of the country by keeping the French out of it? I believe no man will venture that in a court of justice —Nobody has said it in parliament; and I take upon me to say that neither in public nor in private life have I ever heard any person rash or adventurous enough to utter such a wish, nor can I conceive greater wickedness or folly than to volunteer the prowess of the country at the expense of our treasure, our public credit, and our blood, which the Providence of God has hitherto preserved from the fatal consequences of hostile invasions.

Let us next examine who Mr. Stone is, that was to bring about this national destruction—A man who is not proved, notwithstanding the admissibility of such evidence, to have opened his mouth with reproaches either of the governors or the government—Not one of those violent and hot reformers who have made themselves objects of suspicion, but who happens to belong to a society, not, I think, very darkly described by Mr. Jackson, in a letter, which by-the-by, never came into the hands of Mr. Stone, being I believe the one which came back from Basle—He has not been, indeed one of a set of men amongst us contending only for public stations, who think of nothing like a freedom beneficial to the people, or any reform at all, except that of place-hunting, the only object of their pretended public spirit.

Mr. Stone, then, is not proved to have uttered a syllable against government; not one word against the war with France; nothing against those who are engaged in the rule of the country; why then select him from all others for this charge of treason?—Indeed this reserve on the part of Mr. Stone in times like these could scarcely be predicated of any other man—I am sure it could not be predicated of myself who am speaking to you,—though I trust, like other Britons, I should protect my country, and be not among the last to resist, if an atom of our constitution were touched from within or from without; but, for all this, I should be extremely sorry if every thing I may have said at any moment of my life, were to be brought before you, in order to show what my sentiments were concerning some men and some things.—Mr. Stone, however, is not in this situation; for though you have seen every paper he had—though his whole correspondence has been laid open—though he has had no opportunity of protecting himself from the consequences of any rash and unguarded moment, yet they have not been able to state to you (they cannot state it with honour, and it will therefore not be stated to you), that his conduct in any thing whatsoever, made him in the smallest degree an object of suspicion, or at all distinguishable from the rest of his majesty's subjects: on the contrary, let me remind you of the evidence (which you will hear summed up by the Court), that Mr. Stone always held forth publicly, that a man must be a fool or a madman (as indeed he must be), who would wish for a revolution. An enthusiast I admit him to be for human liberty, an enthusiast for all the rights and privileges of mankind, and consequently in the same proportion a friend to the British constitution and this country, the first nation upon earth, or rather, the *only* one, which ever knew what human privileges are, which has enlightened and astonished an admiring world, and which, I trust, will be found for ever the standard and example of the wisest and happiest government in the universe.

Let us next see what kind of invasion it was that Mr. Stone was averting, not, it seems, for his country's benefit, but that it might come at a better time for her destruction.—Was it the invasion of a regulated state in support, for instance, of the claims of another family, such as was meditated by France in the time of king William to restore the exiled house of Stuart, where, if it had been accomplished, the prince only would have been changed, but the laws might have been asserted and remained? Where one regulated state makes war against another, it is almost like a duel between private men, only upon a larger scale, with all the courtesies and civilities of modern war; was it such an invasion that he sought to avert? No—but an invasion from a country convulsed and agonized with a revolution—a country, in which those who sent forth her armies could give no security to any man who supported them, but, on the contrary, could only subject its partisans to probable destruction from some new faction which might succeed.

I should be glad here to ask, for every thing I am saying is to challenge the reply, that it may be seen whether I am imposing upon you or stating any thing, which independently of my character as counsel, I should be prepared to say here or any where.—Let me ask, then, what evidence there is before you that Mr. Stone had received any thing like security that if this invasion should take place, he would have been safe? Is there any thing in the letters of Hurford Stone whence you can collect that he was an agent of the French government? Mr. Jackson could never possibly have been sent to prevent an invasion, but to try whether it could be successfully made. Then, for God's sake, if we are to execute one of the king's subjects, let us have some kind of reason, some principle, some facts. All the letters from Hurford Stone at Paris have found their way to you to-day. Do any of them say to Mr. William Stone—Do not be afraid of the consequences of invasion, *you will be safe*? Quite the contrary. You find that before Mr. Jackson was spoken of,

he writes, "Sell your house at Old Ford, or it will be taken," and in the last letter which has been produced of that class which run from 1 to 10, to some parts of which I shall hereafter more particularly advert, there is this remarkable expression (I speak of No. 10 written from Paris *after Jackson was here*), he there tells his brother, that the letters which he is to write back to him, will probably be examined in France, that it cannot be wondered at that he, Hurford Stone, is an object of suspicion, though, as he says, I am treated with a good deal of delicacy. Now this has not been offered to you as a colourable letter, not being even sent to William Stone directly, but under cover to Lawrence and Company, for the prisoner's perusal, and it was found among the papers by the officers for the crown.

Is it possible then, to consider this as a letter of a man who was the agent of the French government, which knew he had sent Jackson as their instrument, and that they were engaged together in a conspiracy with an Englishman in London, from whom they were to receive accounts of the progress of a mission, in the success of which the government of France was at stake? Could such a man have been an object of suspicion in France, and his letters be subject to examination? It would be folly to say this. Neither has it been considered as at all colourable. He writes, in short, like a man who is suspected at Paris, because he is an Englishman. It may be worth your while, gentlemen, to take a note of what I am now saying. This is the last of the letters when Jackson's treason was consummate, when he was preparing to proceed to Ireland, and when Hurford Stone, if a conspiracy with his brother had existed, must have been expecting him to send an account of the mission from the French government transacting under his own agency here. Yet you find him trembling for himself as an object of suspicion at Paris, and holding a clandestine correspondence with his brother, likely to be more dangerous to him, Hurford Stone, in France, than it could be to his brother, who was in safety in England.

As far as we have got, then, what is there against this gentleman? There are letters that go from 1 to 10, the last of which I have read to you, and read to you first, although it stands last, for the benefit of the observation I have just made upon it. What do they all consist of? Many of them are merely on matters of commerce or manufactures, for there was a manufactory established there, and a great variety of bill and money transactions; so that it seems probable Hurford Stone might wish,—or for any thing I know or care for, did wish,—through Jackson to draw on his brother here to invest his money in an illicit trade, which had begun to be but too much an object in different parts of Europe in consequence of the pressure of the English power upon France, by our navy blocking up her extensive coast. This could not but create so great a lure, for men having money at command, to violate the laws of this country, that it became necessary for parliament to pass an act to beat down that traffic. You accordingly find several of the letters about such common concerns, all as wide of any thing connected with Jackson as with any of yourselves, and you find others of them not merely indifferent, but which place this gentleman at Paris in a most respectable light, as we see him exerting himself with great humanity in the support of several oppressed and miserable women who had been the victims of poverty and misfortune here, and who were then languishing in the prisons of France.

Were there any other letters of Mr. Stone, except those before you? Is there the smallest reason to think from the correspondence that there were any others? Mark what the evidence is in that respect. Although government had (most properly) been in the course, without the knowledge of the prisoner, of watching Jackson in Ireland, and of intercepting all his correspondence; and although Jackson did not know that what he was engaged in had been discovered, yet you find *nothing* passing between them. If there had been any clue, or any connection whatever, between the prisoner and Jackson in the treason he was committing, is it to be conceived that there would have been no letter from William Stone to his brother at Paris, stopped at our post office, or any from his brother to him, except those found in his possession? and if he had had the smallest idea of destroying his letters as containing any matters which could have brought him into this place, what could have prevented him from destroying even those that you have seen, more especially as he knew that he had publicly spoken of the American gentleman? I invite you to read *all the letters that are in evidence*, and see from them whether he knew any more of Jackson than that he was an American gentleman, who had many things to state to him; and although Hurford Stone informs him that he will hear from Jackson, who having come from France must have been an object of suspicion to government, *why he should sell his house at Old Ford*, yet he leaves all these letters just as men deal in general with an ordinary correspondence.

Is Mr. Stone, then, though there is a profession to try his conduct by comparing it with the general conduct and character of man, to be the victim of a total departure from the professed comparison? Let it be, therefore, for me to follow it up by examining his conduct upon the seizure of his papers. Nothing is so easy as to distinguish innocence from guilt under the pressure of unexpected detection. At that awful moment when a man who supposes his conduct has been concealed from all eyes, finds it suddenly exposed to view and that he must answer with his life for the consequences, it is not, nor ever was,

is human nature to conceal his emotions, above all from a person possessed of the understanding and knowledge of Mr. King, and I hope we shall always have men in that station, who, when like him they are capable of making important discriminations, are honourable enough to state the impressions made upon them as witnesses for the crown. Mr. King expressly said, that when he entered as secretary of state, Mr. Stone, so far from appearing *Guilty*, showed less embarrassment than even an innocent man might on such an occasion have been expected to have shown. The evidence of this gentleman is not merely that he did not observe any appearance of embarrassment, which might well enough have happened, but, on the contrary, that he did take particular notice of Mr. Stone's deportment, and that it made an impression upon him, at the time, that he was blameless. Look also at his conduct, upon the same honourable testimony, when all these papers were reading in his presence; without an apparent consciousness of blame. I could have wished to ask the other hon. gentlemen the impression made upon them by Mr. Stone's conversations with them, but I could not do it consistently with the rules of evidence, and I have nothing to complain of on account of the rejection of that proof as it was explained by the Court; yet enough was received to produce the same conviction of his innocence. I asked Mr. Rogers whether when Mr. Stone met him in the street, and spoke to him of the American gentleman, and asked him to read the paper, it was under the impression of any thing like secrecy; I asked him whether if he had met *me*, in the street, five minutes afterwards, he would not have told me of it, and his answer was, *probably he might*. Now can there be a more signal proof of innocence than this, or a more decisive refutation of the only possible way in which the crown can shape its case? The attorney-general does not contend that the letters standing by themselves would be sufficient for conviction, but he says that they receive a support in their criminal construction from his subsequent conduct, and prove all that I am saying to you now, concerning his motives, to be unfounded. This is certainly the only way in which any rational man can apply the crown's evidence; yet I conceive that the whole of Mr. Stone's subsequent conduct, as I have just stated it to you, repels this argument, and maintains his innocence throughout. Gentlemen, in saying this, however, I am not attempting to impeach the conduct of the government, or the propriety of the prosecution. Accusation and the propriety of it on the one hand cannot impeach the propriety of an acquittal on the other, and I am always happy when a defendant is acquitted, that the government is not [illegible]: we live in times when one ought to [illegible] support and vigour to lawful authority; in acquitting a prisoner, are [illegible] attack upon it even by a side wind, that they support it by supporting the laws. Without our free and liberal constitution, our country would be but a prison-ship, from which our people would be escaping by emigration, to avoid the hardships resulting from the heavy revenue with which she is laden; but, thanks be to God for the extraordinary provisions which his Providence has ever lavished upon this happy island, we are endeared to our condition by the unexampled character of our laws, which are cherished and obeyed from the security and protection which they bestow, and I am an advocate for nothing else but their just administration.

With respect to the admissibility of the evidence, and the principles of its reception, I am extremely happy not to be found in any difference of opinion from the Court. If I had, I am sure I should have been found to be in the wrong; neither my capacity nor my experience put me on a footing with those who compose it. It would have been an unfortunate thing in other respects, if the nature and effect of such evidence had been at all disputable; I collect from what has fallen from the lord chief justice to-day, that I was correct in what I stated last night; I thought the evidence admissible upon the ground alone which has been explained by his lordship in a manner too strong to be forgotten.—In examining a transaction which has many parts belonging to it, and many persons connected with them, a court must begin somewhere: I have often on that account been repressed, both by lord Mansfield and by his lordship for objecting too soon.—They have said—"You will surely let the thing begin; if it does not afterwards come home to your client, you will not be hurt." I agree to the evidence so qualified and explained: if, for instance, a house has been set on fire, by the treachery of servants, conspiring to rob and plunder their master, and I am charged as a member of that conspiracy, must not the crown first prove that the house was set on fire, and all the circumstances attending it? Must not it prove this treachery of the servants? But suppose my name did not appear, or only that one of the guilty servants had borrowed a lantern of me, without in any manner acquainting me with the act which was the very essence of the whole inquiry, nobody would say that I could be at all affected or injured by such antecedent proof. I have the volumes spread out before me of the late trials at the Old Bailey, by which it will be seen throughout, that all the facts given in evidence which had no immediate connexion with the prisoners, being the acts of persons whom they had never even seen, *were, on that principle only, admitted*.—The Court said there are *two* branches of the cause—The *first* is to establish a general conspiracy against the government.—*The second, to prove that the prisoners were members of it.* In the same manner to-day, a letter has been

read because found in the possession of Jackson, because Jackson is one of the persons charged as a conspirator, but the crown must carry it a step farther, and connect Mr. Stone with it, before it is contended by any body that it can affect *him*. This principle of evidence is founded on reason, and is not at all hostile to the principles of humanity or justice. The Court must have the full scope of examination, so as to see every thing connected with the subject, but that latitude of proof cannot touch any individual because charged to be connected with a conspiracy, unless it is brought home to his knowledge, and acted upon by himself; yet that which was said by the Court at the same time I undoubtedly agree to also, viz. that when such knowledge and participation have been established, the act of any one conspirator is *then* the act of *all*.—But we are only examining *now* whether Mr. Stone has *in any manner conspired*.

In the letters from France which I have just stated to you, running as I told you from 1 to 10, written upon various subjects, *the parts that relate to Mr. Jackson are very few*: they are all in general terms, and there is a remarkable circumstance in one of them, where he tells him that Jackson is coming, and states the nature of the credit he has upon him. It is a confidential letter, as they are all admitted to be, not colourable, nor charged to be so, as my learned friend the serjeant stated; and nothing surely can be a more striking proof of the real truth of this business, than the insignificant credit which Jackson had upon the prisoner. Was it the credit of a government upon a national object?—Nothing like it; it was neither more nor less than for the sums left in Mr. John Stone's hands, who was Jackson's debtor to that amount. He states the very sums, and after mentioning the gross amount as the basis of the credit, he deducts from it the money he had received abroad, leaving a balance in his favour of five hundred and forty louis d'ors, and then Mr. Stone gives him, I think, 20*l*., and takes his receipt. Now you observe these papers were not found at Old Ford, but in London; because government, having seen by the letters that Jackson had a credit upon the prisoner, and being justly anxious to discover the extent of it, and what was its nature, expecting no doubt something that would decipher the conspiracy, and show the prisoner to be an agent of the French government, the messenger accompanied the prisoner to his counting house in Thames-street, where the papers were opened, all lying without the smallest concealment; and it was proved by Mr. King that Mr. Stone expressed particular satisfaction, *as well he might*, at the finding this account, since it showed (as he had uniformly asserted) his entire innocence of any criminal design against his country, by exhibiting the very limited credit which this Jackson had upon him.

Let me suppose, therefore, that the cause rested here; the evidence being the production of the papers, together with the parole evidence of Mr. Towgood, Mr. Sheridan, lord Lauderdale, and Mr. Rogers, explanatory of the intentions of Mr. Stone, and no letter being found in his possession that could discover to him that Jackson came here upon the mission imputed by the indictment, nor any probability existing that there were other letters, because all had been seized and none discovered—the case for the crown closing with this account and receipt.—Against this evidence I apprehend I could not have been called upon for a defence, because the crown having assigned the motive for the act by the mouth of its own witnesses, before it was consummate, and having shown that whilst Jackson was inviting an invasion, the prisoner was seeking to avert one, it in fact, disproved the conspiracy which it was its object to establish, and proved itself out of court; for who ever heard of conspirators acting in diametrical opposition to each other? Consider too, if it can be still necessary, that the prisoner was not then a desperate man, but in flourishing circumstances, happy in his family, and connected with many valuable friends—Alas! how different is his present condition!—It is called a deliverance which you are soon to give him—Would to God I could call it one!—It is a deliverance from this bar, but not from the bars of a prison—I make no complaints; I have precluded myself from making any by every thing I have said, but surely it is a painful consideration that his affairs have gone to ruin, and that instead of returning to his home, he must go back into confinement, not as a criminal, but as a debtor.—This is a misfortune which cannot be mitigated by your verdict, but I should not have felt myself to be a man if it had not affected me too forcibly to be repressed.

Gentlemen, the solicitor-general will, I am sure, not say to you, if he replies, that the paper, as a communication to the enemy, was in itself indicative of a criminal intention so as to shut out the motive which we rely upon; he will not say so, because it would be inconsistent with his character. It is asked, who proves this honest intention? I answer again *the crown itself has given it to you*, not conclusively I admit, but conclusive at least until the prisoner's declarations accompanying the whole transaction are proved to have been fraudulent and false.—The state trials, God knows, are well known to us. It is a wonder indeed that we know any thing else, having been so long engaged in them. Let me hear then from those state trials, or from all the volumes of our laws, from all the convictions in our courts of justice, any one instance of a man in the very act of committing a crime the most atrocious, and the most penal in its consequences, going about to every man he met, not only exposing what he was doing, but giving the clue by which it

might be defeated. Could any man in his senses have acted in this manner if a traitorous conspiracy with Jackson had actually been on foot? since if in consequence of the prisoner's declarations they had been thrown into separate prisons, might not Jackson (considering himself betrayed) have redeemed his own life by impeaching Stone? Nothing, therefore, but the consciousness of integrity, and that he had nothing to conceal, can rationally account for such otherwise unaccountable conduct. The real truth is, that he knew nothing of what Jackson was actually engaged in, and it is abundantly clear from Mr. Cokayne's evidence, that his communications with the prisoner were only directed towards a clandestine trade which Jackson had endeavoured to embark him in, but which appears to have been declined.—I do not know, gentlemen, whether any of you have read the trial in Ireland, which almost a whole day was consumed in pulling Mr. Cokayne to pieces, and for the plainest of all reasons, because if the jury believed his evidence, Jackson could have no defence.—They, therefore, charged him as an accomplice, and attacked him so strongly on the score of perjury for which he had been indicted, that the attorney-general, with great propriety, considered him as a witness who stood under such circumstances that the jury ought to expect the corroboration of his testimony, which I admit to have been sufficiently supported.

Mr. *Attorney General*.—With respect to the perjury, it is due to the character of that gentleman to state, that though there was an accusation of perjury, he was most honourably acquitted.

Mr. *Erskine*.—I was going to do this justice to Mr. Cokayne, who will be the first man in court to acknowledge it. I have no interest as an advocate to impute falsehood to him, and I should think it unworthy, and unmanly under any circumstances, even by a side wind to misrepresent him. They who conducted the defence of Jackson in Ireland knew they must pull down Cokayne, or that Jackson must fall; they saw that his innocence was incompatible with Cokayne's testimony, and they had a right, therefore, to sift his character, which was open to just inquiry, whereas my friend who sits before me, knows, that from my own personal knowledge, I have reason to believe that Cokayne acted from no interest or willingness to convict Jackson, nor have we any interest whatsoever, in establishing Jackson's innocence. We thought, besides, that it would ill become us, when we were asking a fair consideration of the conduct of our client, to be- [illegible] the defences of other men. Let Mr. [illegible]fore, stand clear in your opi- [illegible]nion. I could wish, that he [illegible] you to leave been per- [illegible]n acquitted by his [illegible] no stain [illegible]rcum- [illegible]ach

Mr. Cokayne, indeed, is a strong witness for the prisoner. He was a friend of Jackson's; so much so, that he reposed great confidence in him, telling him that he was in debt, and that his creditors were at his heels, and asked that his letters might be under cover to him, that his name and character might not be traced; yet, though Jackson, from his first arrival in Ireland, was engaged in his traitorous pursuits, the name of Stone was never heard of by Cokayne.—He may call him again now by my consent and ask him the question, because I have more to know the answer he must give. Now Cokayne then never heard the name of Stone from Jackson, and since one letter only was written to the prisoner, which was intercepted, and never reached him, and since Cokayne himself knew nothing of Jackson's mission, whilst he was in England, what colour is there for saying that Mr. William Stone was acquainted with it? Is it proved that he was? If it be, show me the evidence; name the witness, and turn to what he said in your notes. Cokayne, on the contrary, said that he did not know of Jackson's going to Ireland, till he went there, that Jackson only told him he wished to establish commercial dealings, and asked whether he knew of any merchant who would supply the French government with provisions, for which he had an *unlimited* credit, whereas he had none with Mr. Stone but the very *limited* one that has been proved. Now, even if they could have established that Mr. Stone had engaged in such a contract to supply the enemy with provisions (which does not at all appear), it would not help them upon this record, as though it might connect him with other crimes, it is not the overt act charged by the indictment. What would it be to me even if Hurford Stone had given Jackson reason to believe that his brother would enter into his views, knowing them to be traitorous? that would be for Hurford Stone to answer for if he ever returned to England, but would be nothing at all to the prisoner, unless it could be further shown, that he fell in with such expectations, by seconding the treason that was on foot.

It is further, extremely important, that a name of Jackson's conversations with Hamilton Rowan, and Tone, was the name of the prisoner ever mentioned. If any such connexion had existed, what could possibly have prevented him from saying—You have only to write over to Stone and he will supply the money? and during the whole time Jackson was in Ireland, and whilst Mr. Stone remained here a prisoner, and his defence waiting the issue of Jackson's trial, during all which time, the post officers of the kingdom, (or they are very unfit ones) were, under the control of his majesty's ministers, to guard against the treason, them under public examination,—nothing, whatever, appeared—Mr. Cokayne's evidence gave no countenance to

it, nor does it seem, that the counsel for the crown, were ever instructed to put questions, as if any such correspondence had been suspected.

What account then, gentlemen, could we be prepared to give to the world, of the transactions of this day, if the blood of a subject of this country were to be shed upon such testimony, for doing an act manifestly beneficial, for which no possible motive can be imagined, but the one assigned by the prisoner? His own destruction was involved in that of his country; he could have had no individual security, and he was engaged, besides, at the very time, in many commercial transactions, which could not possibly have been wound up before this invasion took place, and legions of armed men, are surely the very last accountants, with whom a merchant would choose to settle his affairs; and, to swell the improbability, a man not proved to have been even in doubtful circumstances, not at all disaffected to the government, nor open to the suspicion of it from any act or expression throughout his life, and the invulnerable strength of whose case, does not rest upon testimony brought forward in his defence, but upon the accusing evidence of the crown, from the mouths of Mr. Sheridan, Mr. Rogers, Mr. Towgood, and the other witnesses who have been examined.

But, though Mr. Stone could not be impeached by evidence of any act or expression of disaffection, yet his loyalty might by censorious people be questioned, perhaps, on the score of his opinions; and nothing, surely, so exalts a court of justice, as that it will hear no such censures, but looks only to facts. We are but too apt, in common life to deal out our opinions of others with an unsparing hand, always taking every thing in the extreme against each other, without any centre but ourselves of what is right; but many excellent men have been found on both sides of every political controversy, and the truth is very often in the middle. I mention this, because Mr. Stone is known to have gloried in the French revolution.—It would be idle in me to waste your time upon such a subject, except to say that it is still more to his honour, that with a most enthusiastic temper, and with such unexampled matter for its excitation, his conduct has been so guarded as not even to have been an object of suspicion, nor the loyalty even of his sentiments in any manner impeached.

I am almost ashamed to resume any details of the evidence, but I am afraid to leave any thing untouched.—You have had a long correspondence in evidence, but a very small portion only selected for your attention.—I am not blaming this, which is absolutely of course, but it has had the effect, no doubt, of making you think, by the parts selected, that Jackson was its whole burthen and subject.—that he was some great character—that all other concerns were swallowed up and lost in its importance; but so contrary is the truth of the case, that I cannot omit reading a part of the letter which announced him, if I can find it from out the mass.

In this very letter which must be taken to be the credential of invasion; in this very letter announcing its missionary, "he says he will open to you a variety of business, of which my reason for your parting with the house at Old Ford is of the slightest importance;" so that, though Jackson was introduced by the letter, as the organ and instrument of invasion, and that Old Ford house was to be parted with on account of it, yet every thing relating to that subject, was nevertheless of the slightest importance, when compared with the proposals of a commerce, which, after all, were not accepted, and which scarcely seems to have been the subject of conversation between them.

But what is most remarkable of all, is Jackson's letters, who wrote, that an invasion here, would produce universal panic, which is quite at cross-purposes with every thing the prisoner ever wrote or said, though he is called a conspirator with him, as *he* is not even charged with pretending to avert an invasion, whilst, by a counter-paper exposing the weakness of England, he was inviting one. This charge could not have been made, when its falsehood was so notorious, by his having altered Mr. Vaughan's paper, which stated the defenceless state of the country, from the small number of troops except a few cavalry on the coast—a fact which Mr. Stone thought ought not to be exposed, and therefore scratched it out. In this the papers now exhibited in court only differ from one another, the prisoner's edition having left out what Mr. Vaughan had improvidently inserted.

The papers, however, are just nothing in themselves, without the clue of the parole evidence, which introduced them. Indeed, the answer to the whole case, may be said to arise out of the evidence of the very first gentleman selected for examination, since, if there had been any thing in the conduct of Mr. Stone to correspond with the indictment, would Mr. William Smith have been the man to be informed and consulted? Mr. William Smith, gentlemen, is a person of immense fortune,—I could not ask him its extent—great part of it invested in the public funds of the country, all of which would vanish like an enchantment even by an unsuccessful invasion—a person, besides, in too high a situation of life to be a fisher in such troubled waters; all of which must have been perfectly well known to Mr. Stone. Would such a man, I repeat it, have been the first object for communication by any human being in his senses meditating treason, and without the smallest invitation to secrecy? and is it possible that Mr. Smith, instead of telling him that it was his instant duty to give information to the secretary of state, should, instead of that, prepare a paper with his own views on the sub-

ject, so little in reprehension of Mr. Stone's conduct that the counsel for the crown, knowing Mr. Smith's conviction of his innocence, would not waive the legal objection to the question which would have proved it, just as I waived this morning my objection to the evidence of Mr. Pitt? They had undoubtedly a right to persist in it, but it is pretty plain what they conceived the answer of the witness would have been, otherwise it would not have been incumbent upon them to guard the notorious rules of evidence with so much anxiety and tenderness, to shut out the result of an improvident and thoughtless question. The same remark might be extended to all the other witnesses for the crown.

It seemed to make an impression, that two addresses were left with the prisoner by Jackson on his going to Ireland, by which letters were afterwards sent to him, and forwarded; but can it be fitly said, in a trial for high treason, that though I am not proved by any fact to have been privy to a traitorous project, I am nevertheless to be presumed to have known it, because addresses were left with me by the traitor, according to which *sealed* letters were sent abroad, and came to the hands of enemies abroad, the answers to which would have come to me, had they not been intercepted.—Suppose I were standing here for my life, and that a person at Bristol engaged in a treasonable conspiracy, had sent up his sealed letters to me, desiring me to forward them by their addresses to different parts of the kingdom, and suppose farther, that this man was connected with me in various matters of business, so as to give a general appearance of our being connected together, throughout;—could it, therefore, in common sense, be asserted, that because treason was found contained in the answers to these sealed letters, which were intercepted, and never even came to my hands, that I could be convicted of high treason?

We all know, that upon Jackson's trial in Ireland, every man put his own construction and comments upon these letters, and the name Nicholas was supposed to mean the French minister of war,* which turned out afterwards to be Nicholas Madgett; this ought to administer caution to decypherers of letters in a case of blood, as, after a man had been swinging three months, the discovery of such a mistake would be rather late. I mean no attack upon the ministers of the crown in Ireland, who, I have no doubt, are deserving and honourable men.

As to the letters which constitute the *gravamen* of the case, and well justified the crown in all its activities on the subject, my learned friend, the serjeant, said there were three in number, and I improperly corrected him when he was in the right. I thought he was taken, because it was giving the letter to one of them which it hardly deserved, being nothing but a mild letter with a direction; but in correct statement there are three letters, two from Mr. Stone to Jackson, and one in answer to Jackson's letter. Now let me suppose, that these letters had not been produced, I might surely finish the trouble I have been but too long giving you, and therefore nothing can remain but to consider their effect and operation, and what the counsel for the crown must work by them or fail. It is not enough, even if they could lead you to suspect, or conceive, or suppose, that the prisoner may be guilty, because they must establish, by evidence, the fact of his being guilty, and not we the negative that he is not.

My learned friend said,—I am persuaded, in the true spirit of his feelings,—that he hoped in God we should be able to do what he thought was incumbent upon us; but I have only to thank God that nothing has been done which calls upon me to do any thing more than to ask you, the jury, whether, after what you have heard from my honourable and excellent friend who preceded me, which has made it only an abuse of your time and patience to have heard me at all, the crown has given you reason, as I have just before said, not merely to suspect the guilt of the prisoner, but has compelled you, speaking each man singly for himself, to pronounce that he is guilty, remembering, whilst you pronounce it, the mild and charitable spirit of the laws, and the protections which our forefathers have raised up against attacks of the state.

Now do these letters amount to such a proof? Let us try that proposition.

We learn from the evidence, that Jackson left this country with Mr. Cokayne, his confidential attendant, who yet knew nothing of any mission to Ireland, and to whom he had never mentioned the name of Stone, nor is there any proof whatever that they were antecedently connected. It appears that he was first announced by Mr. Hurford Stone; and when he went over to Ireland, and wrote to the prisoner, the latter could not but suppose that he had business to transact there. I am not at all afraid of this letter, and will read it to you:—

"*Dublin, 5th April*, 1794.

"Dear sir; Owing to a variety of incidents, which I will explain when I have the pleasure of seeing you, I have been prevented writing until the present moment.—Some very excellent friends, to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service, and were their power equal to their wishes, I am confident I should experience the benefit of their good intentions; accepting as I do, the will for the act, they have a claim on my gratitude." "I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed."

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* of this Volume.

Now the counsel for the crown say, this has nothing to do with commerce, and is only a masked way of desiring the prisoner not to make use of the papers he left with him on the subject of the invasion; but that cannot be, because they were already dispatched. He then goes on to say—"I request, my dear sir, that you will dedicate an instant, on the return of the post, in acknowledging the receipt of this letter; and if you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me, as the assizes at Cork are about to commence."

It is then asked,—and since the burthen is cast upon me, I can take it up and carry it,—I am asked by what means Mr. Stone knew that the family at Shields meant the people of France, unless he was in criminal concert with the writer of this letter? To that I answer, that Mr. Stone had long been accustomed to correspond with his brother, whose letters of business had, upon various occasions, been opened; and Jackson also, even if he had honestly come from France, might desire to know, without interruption, through Stone, what was going on there, and might have agreed, for any thing I know, that the family at Shields should stand for France. It is nothing whether my guesses are well or ill founded, as the prisoner is neither to be convicted nor acquitted by guesses, but by the force of the evidence for the crown; yet I think it is impossible not to see, from Mr. Stone's answer, that though he understood the family at Shields to mean France, yet that he interpreted the inquiries to be touching the general concerns of that distracted country. If indeed he had said, in answer, "I long to hear how the affairs of the family at Shields go on *in Ireland*; I have had no letters yet upon that subject, but expect some every day, and will send them when the assizes at Cork commence;" and had he followed it up by any expressions by which it could be fairly collected, that the business of the family at Shields meant rebellion there, Mr. Stone could have no defence; but there is not a syllable in it that applies to Jackson's interrogatory; and the whole of it shows it to have been regarding general politics in France, under the cypher which had been resorted to. —"I have not made use of what you left me."—Now this could not mean the address, for the reason I have already given you, and cannot therefore connect itself with this indictment; and he then goes on to say, "What a wonderful change there is in the family"—[taking it to be France]—"Will it tend to good? I confess I think better of it now than before. I want what you possess—a knowledge of the several branches of it, to form a proper judgment of *the last fracas.*" This can only be taken to allude to the hourly-shifting changes in the French revolution; at that time an interesting topic with people of all descriptions, but there is not one syllable in reply to any affairs in Ireland; but, on the contrary, if it does apply to France (which I think it must be taken to do) it contains matter which rather goes in destruction of the charge. "Will," he says, "the change be for the better?" and then, in answer to his own question, seems to intimate, that nothing could make it worse, *i. e.* nothing worse than the government of France. Yet this unfortunate gentleman, seemingly in total ignorance regarding Ireland, and though writing against the French government as a government of evil, never likely to be better, is supposed, nevertheless, to have made up his mind, at the very same moment, to expose all that was dear to him to the sword of this nation, which, in his own deliberately-written opinion, had neither a government that could protect its friends, nor secure them from the gripe of the succeeding faction, which might destroy it. He was an enthusiast, it is true, to the principles which first led, and may still ultimately lead, in the Providence of God, to the universal improvement and happiness of her people, without at all disturbing the settled forms of government in other nations; for constitutions may happily exist under various forms, and he must be a fool who thinks that there can be no good government but our own.

It farther appears, that without at all questioning the justice of Jackson's punishment, Mr. Hurford Stone, the third person charged as a conspirator, cannot be said to be proved to have been an agent of France; as it is clear, that even after Jackson was in Ireland, he was alarmed for his own safety in France, and all his letters, even from his brother the prisoner, were open to the examination of the French government; and the prisoner himself, as I have before observed to you, even in this very letter, which is to let fall the axe upon his neck, if you put the construction upon it which you are asked by the counsel for the prosecution to put, condemns the government, of which he is supposed to be the spy and the supporter, speculates upon its instability, and asks if it possibly can come to good, whilst, at the very same moment, from the love of this same government, he is giving up his wife and his daughters to the ravishings of her soldiery, his whole property to their pillage, the revered constitution of his forefathers to inevitable destruction, and, by his disconnection with all the moral principles which govern us, and distinguish us from the beasts that perish, sets himself up in his own person as a spectacle of infamy, to the abhorrence of all future generations.

Gentlemen, if this presumption could be supported without any rational motive, and in the teeth of the whole evidence, I am sure I should care much less about an invasion from the French. I could then almost say, Let them come when they please; we cannot be worse by their coming; I would rather England were invaded from any quarter of the

world, even by savages, who know no law, and give no quarter, than live to see that her courts had forgotten all the principles which were the great standards of our security, the pride and glory of our country in all ages, and the most majestic fabric of human wisdom which either tradition or history can record, for the dignity and happiness of mankind.

Gentlemen, there are several other matters which I shall pass by, particularly the details of some of the letters which have been relied on, because, if Mr. Stone be innocent, as I really believe him to be, how could he possibly have instructed me to comment upon letters he never saw, or to observe upon the conduct of men whose actions were never submitted to his consideration, and with whom he was in no concert? If indeed, because Jackson wrote the letters in question, and because they were rightly admitted in evidence, they therefore made Mr. Stone responsible for all the crimes Jackson was committing or had committed, *then why, in the name of Heaven, have we been shut up here for two days together?* since, the instant the Court admitted the paper and the letters, the case, so circumstanced, was reduced to this short syllogism: *Jackson is a traitor—whoever receives letters from him is a traitor—ergo, you, Mr. William Stone, are a traitor;* and then you had only to have folded up your notes, and given in your verdict of Guilty; but when it has been admitted on all hands, that those acts which affect Jackson can only affect the prisoner, as he could by proof be connected with him in turpitude, as being the man who set him in motion, or acted with him when he was in motion, knowing the nature of his mission, and intending to give effect to the criminal purpose he was engaged in, *then the case is just inverted, and there is no guilt at all.*

Gentlemen, I seek to set no snare for your consciences, nor to lead you to think that there is a greater duty to acquit than to condemn. Certainly there is not. The same sense of duty which binds a humane court to acquit, when it can administer a saving justice, calls upon it equally to convict, where there is undoubted evidence of guilt. In such a case, mercy can have no entrance; it can then only flow from the crown, when the criminal is delivered into the hands of the king. I admit, therefore, that you must conduct yourselves, as the noble judge has frequently said in this place, like firm men, discharging the duties of your office as your consciences demand. No man can doubt that this is your indispensable obligation, though I have been very often placed in such situations here, as not to have thought myself at all bound to advert to it: but standing in a case where it

-with the views at least I have endeavoured to understand ld not consider it your clear prisoner, I have not been you, that I ought to expect nothing from you but the results of justice and law; because the results of both must for ever repel a judgment founded upon suspicions and imaginations of guilt. It is not enough, therefore, for the crown to raise so thick a cloud over this transaction, that you cannot be sure which way you walk through it, but the light must surround you throughout. This alone can enable you to judge on which side is the balance of the evidence, so as to pronounce that verdict of acquittal, which, to use the language of the attorney-general, that cannot be too often repeated, will make every man contented when it is delivered.

Reply.

Mr. *Solicitor General.*—Gentlemen of the Jury;—It now falls to my lot, after a very interesting trial, to delay you for some time longer with such observations as I think necessary to make upon the whole evidence, as it now stands before you, and in reply to what has fallen from the counsel for the prisoner.

Gentlemen, notice has been taken of the length of time which has elapsed since the prisoner's arrest, and before this matter was brought before you. This in part, you have been informed, was owing to the prisoner himself; to his putting off the trial. For the rest, it has been owing simply to this circumstance; —that until after the trial of Mr. Jackson it was impossible to bring on this trial. You will be aware of the utter impossibility of bringing on both trials at the same time, considering the nature of the evidence which has been given; and twice Mr. Jackson desired the indulgence of the Court in Ireland, that his trial might be put off on account of the absence of material witnesses.* That, and that only, has occasioned the delay in this trial. Every part of the evidence, as has been observed by the counsel for the prisoner, was in the possession of the crown immediately or shortly after the prisoner was taken up. The delay, therefore, has been wholly involuntary I admit, if the prisoner is innocent, it has been extremely unfortunate for him; but it is a misfortune which the necessary indulgence to another person made unavoidable.

Gentlemen, upon the subject which you have now to discuss, you have been told, that you are not to judge upon light conjecture, or upon those conclusions which may be offered to you by the extreme of ingenuity. I certainly admit, that you are to receive reasonable satisfaction of the guilt of the prisoner, before you find him guilty. You are to receive that impression upon your minds which shall dispose you with safe consciences (if that should be your judgment) to convict, before you shall convict; and I cannot dissemble to you, that myself, as well as every other person, must have, as my learned leader observed

* See p. 795 and 798 of this Volume.

to you in the opening of this case, a real pleasure if we should depart this Court *convinced* that the prisoner is innocent. At the same time, Gentlemen, I feel it my duty, standing in the situation of counsel for the prosecution, to say, that at this moment I feel no such conviction: if I am wrong in this opinion, I shall necessarily be corrected by the learned judge.

Gentlemen, I am not in this case to suppose that men are to be perfect—that they are to be free from all indiscretions; that even men of considerable talents, and considerable abilities, should never have an indiscreet moment. I am not to forget—and my friends have told me not to forget—the nature of man, but to remember him with all his imperfections. Still I must observe, that if there never was indiscretion, guilt would rarely come to light—that, generally speaking it is some indiscretion that betrays guilt, and brings it to public punishment.

My learned friends have now, at this period of the trial, saved me a great deal of trouble; for they have not attempted—and herein they have acted with great prudence—they have not attempted to dispute the guilt of Mr. Hurford stone. The evidence which has been laid before you upon that subject was so cogent, that I conceive it was impossible for them to dispute it. They have not disputed the object of Mr. Jackson in coming to this country, and afterwards in going to Ireland——

Lord *Kenyon*.—If the prisoner has any thing to say to the Court, the season would be before you make your reply.—I do not know whether he means to do it.

Mr. *Stone*.—My counsel have conveyed my sentiments.—I am fully satisfied with their exertions.

Mr. *Solicitor General*.—They have not disputed that the object of Mr. Jackson, in coming to this country, and afterwards in going to Ireland, was to procure intelligence for the use of the government of France. That that was his object, the evidence has most abundantly proved; and I shall not state it to you again. The evidence, as I conceive, has also abundantly proved a great deal more; and the true question which you will have to try is, whether Mr. Stone, knowing the object of Mr. Jackson—in the whole, or only in part, if in that part it amounted to the degree of criminality imputed to it by this indictment—whether, knowing that object, he either assisted in attaining the object; assented to the attainment of it; received Mr. Jackson knowing him to have that object; or so far concurred in it (concealing his knowledge of it) as to make the offence not merely concealing, but assenting to, the treason of Mr. Jackson. If he did so far concur, he is guilty of that offence which constitutes the crime of high treason. For although certainly the mere simple knowledge, from a single communication, of the treasonable intent of another, is nothing more than what the law calls misprision of treason, yet, if the person to whom such a communication is made goes one step farther, if he gives *any degree of assent* to that treasonable intent, the crime of which he is guilty assumes a deeper dye—it is the crime of high treason; much more if he assists in the execution, in the attainment of the object, *if in any degree* he participates in it.

Gentlemen, the object of Mr. Jackson, I observed, cannot be doubted: Mr. Stone's acquaintance with that object, to a certain point, cannot be doubted: his assistance in the attainment of that object, to a certain point, cannot be doubted: the only question which it seems to me can possibly be made, is this—*Whether he assented so far, and with that degree of knowledge which was sufficient to make him partake in the guilt of Mr. Jackson?* The assent necessary to constitute the crime, I observed to you before, under the correction of the Court, I conceive to be—*any degree of assent to that which was a criminal object in Mr. Jackson, and known to Mr. Stone to be the object of Mr. Jackson.*

Gentlemen, the nature of the case made for the defendant has certainly admitted a considerable degree of indiscretion in Mr. Stone. But it is said, it was mere indiscretion, and no more; that his objects and his views were good; that he was acting mistakenly perhaps, but that he meant to *serve* his country, and did not mean to *injure* it; that he therefore *in no degree assented to the treason of Jackson*. That is the nature of the defence which has been made for him.

Now, gentlemen, in trying these questions —the degree of knowledge which Mr. Stone had of the objects of Mr. Jackson—the degree of assent which he gave to the attainment of those objects, you must judge in this case, as in all cases, from two sources:—from acts which are clearly proved to have come to the knowledge of Mr. Stone, either acts of his own, or acts clearly shown to have come to his knowledge; or from that presumption which, in criminal cases particularly, and in a vast variety of civil cases, must necessarily be the ground of the verdict of every jury—a reasonable presumption to be drawn by men of your character, exercising, not acute ingenuity, but plain good common sense, from established facts.

What was it that Mr. Stone clearly knew? —He knew that Mr. Jackson came from France: he knew that the object of Mr. Jackson, or one of his objects, was, to gain intelligence: and for a moment I will say *for some purpose*, without discussing *for what purpose*, he knew the nature of that intelligence which Jackson wished to gain—at least with regard to England: he knew that the intelligence which was so to be gained by Mr. Jackson was to be communicated to the French government;—I assume that also as clear for the moment; and I think I shall establish it in your minds, without any sort of

doubt, from the testimony of Mr. Sheridan, and every one of the gentlemen who gave evidence with respect to Mr. Stone's communications with them; because the whole ground of the conversation to which their evidence applies was, the fact that the intelligence was to be communicated, in some way or other, to the French government—for the purpose, indeed, of having the effect (as Mr. Stone represented) of preventing an invasion. But that must necessarily have been, because the intelligence was to be communicated to the government of France; for if it was not to be so communicated, it could have had no such effect. Therefore it is clear that Mr. Stone knew the nature of the intelligence that was desired to be obtained by Mr. Jackson, at least with respect to England; and that he knew that that intelligence was to be gained for the purpose of communicating it to France, and to the government of France. Gentlemen, when you recollect what was the information that was gained, and when it occurs to your minds that this information was, with the knowledge of Mr. Stone, to be communicated to the government of France, what does there really remain to prove in this cause? When I submit this to you, as decisively proving the guilt of the prisoner, do I want the exercise of ingenuity? Do I require your adverting to particular passages in letters? Do I call you to niceties of distinctions? Or, do I state plain simple facts, the force and effect of which must at once occur to every one of you, and which taken simply and alone, demonstrate, as I submit, the guilt of Mr. Stone?

That the communication *was to be made* to the government of France, I submit to you, is perfectly clear from the evidence given by Mr. Sheridan, lord Lauderdale, Mr. Towgood, and Mr. Rogers; that *it had been so communicated*, so far as respected England, after it had been given, appears likewise from the letters of Hurford Stone, of the 30th of March, 1794, the 21st of April, 1794, and that letter which is mistakenly or artfully dated the 8th of April, 1792, but which must (from the contents) have been written some time towards the end of April, or the beginning of May, 1794. This, I think, I shall have no sort of difficulty of impressing upon your minds.

First, with respect to the evidence of Mr. Sheridan—and here, gentlemen, I would request your attention to what Mr. Jackson himself states to have been his object, in two letters which he wrote of the 17th and 18th of March, 1794—In those letters he says, that it was his object "to obtain the opinion of *leading men in this country*—what *they* thought were the dispositions of the people of this country, in case an invasion should take place." I have not the letters immediately before me, but that, according to *my* recollection, is nearly the expression made use of. He opens the letter of the 17th of March, 1794, with some such expression, and he closes the letter of the 18th of March, with a similar expression.

Now, gentlemen, it was essentially necessary for Mr. Stone, in order to get Mr. Jackson the assistance which he wanted, it was necessary that his conversation, for the purpose of obtaining that information, which Mr. Jackson desired to possess, should be open and unreserved. It was essentially necessary, too, that it should be with persons of some rank and distinction in the country; for it was the *opinion of leading men* in the country which was to be obtained.—His conversation with Mr. Sheridan, is stated by Mr. Sheridan to have arisen in consequence of Mr. Stone being brought to him by another gentleman.—He stated to Mr. Sheridan, that he had seen lord Lauderdale, and colonel Maitland, and that he had something to communicate which would be of great public benefit. He then stated, that he had frequent communications with his brother at Paris; that he understood an invasion of this country *was seriously resolved upon by the executive government in France;* and then he stated, speaking of the information received from his brother, that this resolution was adopted in France, on an opinion, which Mr. Stone conceived to be ill-founded, of the state of the public mind, and general discontent in this country. He then said, that the service which he thought he could effect would be *by a circuitous channel of information, that was likely to reach the government in France;* that the object would be, *to undeceive the government in France*, and *to communicate to them* the real state of the country, *to convince them* how little could be expected of any thing like assistance or co-operation from any description of men in this country; and, he added, that he conceived and hoped that the consequence might be *their abandoning a project*, evidently taken up on a *false information*.

Gentlemen, if Mr. Jackson had himself set about endeavouring to obtain the *opinion of leading men* upon such a subject, how would he have acted otherwise than Mr. Stone did? Mr. Stone contrives to have himself introduced to a gentleman of considerable talents, of considerable character in the parliament of the country, a gentleman who had been in an official situation in this country more than once, who had been at different times, under secretary of state, and secretary of the Treasury. He introduces himself to this gentleman, and then he states what I have just been reading to you.—Gentlemen, if Mr. Jackson himself had been anxious to obtain, by his own means (having the means of doing it) the information which he states in his letters to the French government, of the 17th and 18th of March (for, I think, you must take these letters to have been written clearly with a view to be communicated to the French government) if that had been his object, how could he have proceeded in any other manner

effectually for his purpose, as the way in which Mr. Stone proceeded? And, gentlemen, when it is said, that this was *done openly*—In what other manner could it be done? Had there been any attempt to *closet Mr. Sheridan*, to make this inquiry of him *privately*, suspicion must necessarily have arisen, and there would have been an end, in the instant, of the whole. It would have been impossible to have obtained any communication from Mr. Sheridan.—But what was the fact with respect to Mr. Sheridan, a man of experience in business? He instantly saw that there was something which he could not approve in the proceeding; and when Mr. Stone began reading the paper which he had obtained from the incaution of another gentleman, Mr. Sheridan would not let him go through with reading it, and told him that this was a sort of business he did not like. When Mr. Stone talked to Mr. Sheridan of the American gentleman, who was to have some means of communication, he spoke, as Mr. Sheridan, I think, says, very vaguely and very indefinitely, and in a manner which clearly made an impression on Mr. Sheridan's mind. Mr. Sheridan then did not permit him to read through the paper he had brought, but desired he would read no more, and told him that if there was any thing of this sort to be communicated, he ought immediately to inform the secretary of state; and added, that which must convince you what the real impression on Mr. Sheridan's mind was, that he must have felt that what Mr. Stone was doing, though it had a cover, was not proper. Having stopped Mr. Stone before he had gone through the paper, he told him, he thought he might be imposed upon by the person whom he had represented as an American gentleman.—And Mr. Stone then reasoning with him upon the subject, and saying, that an invasion would be a great evil, and if it could be prevented it would be doing a great public service.—Mr. Sheridan observed, that whoever that American gentleman was, he must be watched; and that if he (Mr. Sheridan) had been in the situation of Mr. Dundas, he should have thought it necessary to possess himself of the correspondence between Mr. Stone's brother and this American gentleman. Therefore, gentlemen, if you attend to the evidence of Mr. Sheridan, it is impossible but you must see, that a man of his penetration, and of his habits in business, at once saw through Mr. Stone's application—that he saw it was covered by a veil, but that it was in itself mischievous; and, therefore he gave him that sort of monition which I have stated.

My lord Lauderdale speaks very much in the same language, and he says, that there was so much vagueness in the manner in which Mr. Stone expressed himself, in respect to this American gentleman, that he could collect nothing from what he said. But his lordship says that major Maitland, his brother, expressed himself with considerable warmth upon the impropriety of such a communication as was contained in the paper shown to them by Mr. Stone. I shall, by-and-by, remark upon one passage which was struck out of this paper; but you will observe, when you look at the paper, the passages which remain in it; and you will also observe the information communicated by Mr. Jackson's letters to France, and how far that communication tallies with that paper *as originally framed*, and likewise tallies with it with respect to those passages which, communicated to the government of France, could not *by possibility be advantageous* to the government of this country.

Mr. Towgood likewise says, that Mr. Stone told him a person, who had come to him from Paris, had brought him news of his brother; and that *that person had been making inquiries about parties in this country, and how it was likely the people would be affected towards the French, in case of an invasion*—that Mr. Stone said he thought it would be doing good if this should be communicated to his brother at Paris, by the American gentleman whom he had mentioned. Mr. Towgood said, *it was a delicate subject* to converse about; in which Mr. Stone acquiesced, and said he had not, and should not, do any thing that would implicate him in any difficulty. You see, therefore, Mr. Stone was aware, in his conversation with Mr. Towgood, that this was *an extremely delicate subject*; for he said he should take care to proceed in such a manner as not to implicate himself in any difficulty. The conversation with Mr. Rogers was nearly to the same effect. The conversation with Mr. Smith you will likewise recollect was to the same effect—and you will recollect, Mr. Smith positively said he was sure that Mr. Stone gave him to understand that he did not mean to *make any use whatever* of the paper which he communicated to Mr. Smith, if, upon consulting any friends, they should advise him against it; meaning the paper supposed to have been prepared by Mr. Vaughan.

Gentlemen, the whole of this evidence, therefore, seems to show most clearly that Mr. Stone was proceeding by means of the conversations which he held with these gentlemen, to obtain that information which Mr. Jackson, in his letters, says, it was his object to obtain; namely, "*the opinions of leading characters upon particular subjects, for the purpose of communicating that information to France.*"—And that Mr. Stone knew that that intelligence, which Jackson was to obtain, was to be communicated to France. You will likewise recollect, that he represented to some of these gentlemen, that this American might be a person by means of whom some treaty might be opened for the purpose of negociating a peace. Therefore, unless this representation was utterly false, it is impossible but the impression upon his mind must have been, that Mr. Jackson had communication

with the government of France, and that the intelligence which he should obtain, was to be communicated in some way or other to the government of France. For no negotiation for peace could be opened, unless the person through whom it was to be opened, had the means of communicating with that government. Thus much appears to me clearly and indisputably established, from the evidence of the gentlemen whom I have named.

Gentlemen, I should likewise observe, that the representation made by Mr. Stone to these gentlemen, was not precisely the same to all, or precisely true.—In the first place, you will recollect, that he mentioned to Mr. Smith, that the correspondence with his brother *had been for a considerable time interrupted;* but that he had *then* the means of communication by this American gentleman. You will recollect that Mr. Towgood's evidence tends very much to the same effect, though not so explicitly as Mr. Smith's. Whereas his statement to Mr. Sheridan, was of a constant correspondence with his brother at Paris, which was the fact. You will likewise recollect, that he mentioned this person merely as an American gentleman—he did not state when or where he was to be found, or what was his general character—but he merely represented him to those persons as an American gentleman.

If any person employed by Mr. Jackson, to obtain for him the intelligence which he wanted to obtain, was desirous of acting in the most artful manner, could he have acted with more art to accomplish that purpose, than by acting in the manner in which Mr. Stone acted? It was impossible to obtain the sort of information which he wished to obtain in any other way. You have heard, that besides the communication with these gentlemen, Mr. Stone openly made some representations of the same sort, at the Coal Exchange and other places. Not having been in Court at the time when that evidence was given, I cannot undertake to state it correctly; but I understand, as far as the evidence goes, that in those conversations he never stated any thing about the American gentleman.

And, gentlemen, if he was to gain any general information upon the subject, it must be by public discussion that he must obtain it—it must be by acting openly. If he had taken every body into a corner, and conversed with them secretly and quietly upon the subject, and by accident any of them had mentioned, each to the other, "I had this sort of conversation with Mr. Stone," it would have raised suspicion. The only way to prevent suspicion was to act in the manner in which he did act. The whole of this evidence therefore seems to me, clearly to establish in proof, that Mr. Stone knew the general object of Mr. Jackson's mission; that he to *a certain degree* *object;* that *he knew that the* as to procure, was to be com- French government; and that *he set himself about to procure that intelligence in the way in which the most artful agent of Mr. Jackson could most artfully have set about it.*—If this stood alone, it seems to me, that it would be sufficient to demonstrate the guilt which is imputed to Mr. Stone.—But, gentlemen, when you view the whole of this subject, a thousand circumstances arise, which confirm this imputation to my mind, beyond a possibility of doubt. I mention them, not because I think it necessary to mention them, but because in a case like this, it seems to me, that every corroborating circumstance that occurs to me, it is my duty to offer to your consideration.

Let us consider by whom Mr. Jackson was recommended, in what manner he was recommended, and what was the purpose for which in the letters which so recommended him, he was recommended to Mr. Stone;—What was the character of Mr. Jackson;—How he came into this country, and how he conducted himself in it to the knowledge of Mr. Stone. You will see that all these circumstances will tend to impress your minds with the conviction, either of that guilt which I impute, or of that innocence which is asserted by the counsel for the prisoner.

Gentlemen, first of all, he was recommended by Mr. Hurford Stone.—Mr. Hurford Stone is certainly the brother of the prisoner at the bar, and I dare say you, gentlemen, who may have the fortune to have a brother, may feel those sentiments of tenderness and affection, which would make considerable impression on your minds, if you had a brother in the situation of Mr. Hurford Stone. But it is the duty of men, so to regulate their actions, that they shall not permit their affections to do injury to other men, or to do injury to their country; and every man, although partiality to a brother may lead him to overlook slight things, must yet be struck by prominent circumstances to a degree, which will not permit him to forget the relation and situation, in which that brother stands.—Gentlemen, the prisoner must have known that Mr. Hurford Stone, though born an Englishman, had become in heart a Frenchman; that every thing which he had was in France; that he had established (as he stated in one of his letters) three considerable manufactories there—he there enjoyed great consideration—and the whole tone of his letters is evidently calculated to impress his brother with an opinion, that France was the country to which *he* also ought to resort; that *he* also ought to remove his property from this country to that; and that immense gain would probably be obtained there.—It is extremely difficult—and my learned friends have observed upon it—it is extremely difficult to separate interest from affection.—We have been truly told, that where our treasure is, there will our hearts be also. What man is there, who is not conscious that at some moment of his life, he has felt the operation of interest weighing him

down, in a manner which he could not approve?

How was it possible for Mr. William Stone, to forget the situation in which his brother stood? Could he forget that his brother was in effect a Frenchman, and would not every letter which his brother wrote, remind him of it? Let us suppose that Mr. Hurford Stone had been in truth a natural-born Frenchman; that he had never been in this country, and had never had any connexion with this country—that the fact had been, that a natural-born Frenchman had recommended Mr. Jackson to Mr. Stone, for the purpose of obtaining intelligence for the use of the French government—whatever that intelligence might be, how could it be imagined that that intelligence was to be gained for any other purpose, but that of serving the French government? And what is the necessary result from the mere character of an agent? If Mr. Jackson was a faithful and intelligent agent of the French government, and Mr. Stone gave him information which would be advantageous to this country, and not to the French government, he would not communicate that intelligence to the French government, or would only communicate so much as would be of use to the French government, and no more—or if he communicated the whole, he would do it with such farther information that the necessary consequence would be, that the French government would use such part as was prejudicial to this country, and reject such part as might be beneficial to it. Therefore, when a man pretends to say, that in communicating intelligence to the enemy, he means to act beneficially to this country, he asserts that which appears to me to involve in itself such a multitude of contradictions, that I know not in what manner to grapple with an argument raised upon it.—Communicating intelligence to an agent of France, and communicating it for the purpose of doing good to this country! —The only way in which it could be doing good, would be by deceiving the agent in some way, so as to lead him, and those whom he was to inform, to act upon a false intelligence: Whereas the object here was, to *gain true intelligence*, and to communicate *that intelligence* for the purpose of having weight with the councils of that country; and the object of having the opinions of *leading men* could only be, that those opinions might have weight with leading men in that country—*with those who directed the councils of that country.*

Besides, gentlemen, we cannot overlook that Mr. Stone himself is perpetually called upon by his brother, to cast his views to France; and that all the mysterious letters upon the subject of Old Ford, have unquestionably this in view: that his property in this country should be disposed of, for the purpose of preventing its becoming a prey to a supposed invasion from France, and for the purpose of enabling him to make his fortune in a better country, telling him that his future engagements would be infinitely more profitable to him, than those in which he was then engaged.

Gentlemen, another circumstance is the manner in which Mr. Jackson was introduced. —You will recollect, that this was by a series of letters—mentioning at first, *a person* that was about to come; then, *an American gentleman* that was to come—and this person was *to communicate a great deal, to explain a great deal that was mysterious, and which could not otherwise be explained to Mr. Stone*—What was the character in which Mr. Jackson was represented to Mr. Stone in the letters?—He is called "the American friend" of Mr. John Hurford Stone, "who was to transact various businesses in England."—My friends have said, "an American merchant;" and that I take to be the character in which they meant he should be represented.—If he was known to Mr. Stone before, then Mr. Stone must have known that this description of Mr. Jackson was false.—If he was not known to Mr. Stone before (which is what you will probably presume) then, what must have been Mr. Stone's surprise when Mr. Jackson came to England, to find an American merchant who had no commercial connexions with this country:—Consider that circumstance alone:—If Mr. Stone knew that Mr. Jackson was what he really was before he came to England, then he knew that his brother was misrepresenting him as an American merchant?—If he really believed him to be, as his brother represented him, an American merchant, what an extraordinary American merchant was this, who appears to have had no commercial concerns whatever to transact in this country, unless he had any to transact with Mr. Stone: and you must be all aware, that a person to whom the character of an American merchant could properly be given, must be a man who must have some sort of connexions with this country, other than those which could be made merely by the introduction for the first time to Mr. Stone.

Gentlemen, it has been asserted by the learned counsel who led the defence, that Mr. Stone never knew Mr. Jackson in any other character but that of an American merchant. —If he never knew him in any other character, if he never discovered his real character—that he was a clergyman—a native of Ireland—then all the difficulty which I have last suggested must occur.—If he did discover his true character after he came to England, not knowing it before, then he must know that this gentleman had been misrepresented to him.—With respect to any business conducted by this gentleman, even with Mr. Stone himself, have we any trace of any thing but political matters, except what is imputed to the conversation with Mr. Cokayne? For it is said by the leading counsel for the prisoner, that Mr. Cokayne's evidence has produced something which is extremely im-

portant to show the situation of Mr. Jackson in this country, and his business with Mr. Stone; and that Mr. Jackson applied to Mr. Cokayne to assist him in some commercial views, for the purpose of supplying the French with provisions to a very great extent.

First of all, in that conversation between Mr. Jackson and Mr. Cokayne, Mr. Jackson held out great advantages to Mr. Cokayne: the relieving him from the situation in which he stood, in a troublesome profession, and putting him in a very affluent situation. The conversation might be held, therefore, for no other purpose whatever than that of inducing him to concur in the views of Mr. Jackson. It is clear Mr. Jackson wished to carry Mr. Cokayne over with him to Ireland. If this conversation had any real bottom, and if, as my other learned friend who is counsel for the prisoner supposed, the same sort of application had been made to Mr. Stone, and he refused it, and upon the same grounds, I presume, as Mr. Cokayne did—that is, that he conceived the thing to be illegal and improper—could Mr. Stone have doubted of the purposes of Mr. Jackson; and would not Mr. Stone have acted immediately as Mr. Cokayne did? Mr. Cokayne, the moment that proposition was made to him, finding that his old friend was become a dangerous character, went and gave information to government.

Gentlemen, I must here observe upon the situation in which Mr. Cokayne has stood; and the extreme importance it is to the public service that men who, upon such an occasion, do come forward, should not be treated as men undeserving of credit. I apprehend he is as much deserving of credit as any man whatever; and all that the attorney-general meant to state was———

Lord *Kenyon*.—Nobody has stated the contrary.

Mr. *Solicitor General*.—It would be extremely detrimental to the public service if any such imputation could be thrown. Gentlemen, you will recollect the letters read to you of the 17th and 27th of January, 1794, from Mr. Hurford Stone to his brother; these letters state, that Mr. Jackson would have to transact various businesses; and you will recollect the business as treated in other letters as *Mr. Jackson's business*. It is extremely important to recollect, that it is constantly represented in these latters, that *Mr. Jackson* had *various business* to transact, and business which was represented as *his business*. With respect to the mystery that was to be explained as to Old Ford house, that made a very small part of the concern; but there were various considerable businesses which he was to transact: and money was to be advanced to ...am Stone, on the credit of Hur... ...s is particularly communi... ...r which is written under the ...rd, though written by Hur...

...store, came into this country under these suspicious circumstances. It is not shown that he was seen any where, except by Mr. Cokayne, whilst he was in this country. From the representation of Mr. Cokayne, it does not appear that he was seen any where; and his whole conduct was a mystery, which could not have escaped the notice of such a man as Mr. William Stone, if Mr. William Stone had not had a key to that mystery. He holds correspondence with Mr. William Stone himself in language so perfectly mysterious, that my friends have differed in their explanation of it. I think it is easy to give an explanation of it, when you combine it, in all its parts, with every thing that has passed—when you see the key; and I think you will see presently that the key was in the hands of Mr. Stone, Mr. Hurford Stone, Mr. Jackson, Nicholas Madgett, and perhaps some other persons.

Having come to this country under these circumstances, and Mr. Stone, having procured for him information in this country in the manner which I have before observed upon, afterwards assists him to go to Ireland. What had Mr. William Stone to do with Mr. Jackson's going to Ireland? Has it been suggested to you for what purpose Mr. William Stone was to have any connexion at all with Mr. Jackson after Mr. Jackson left this country? If there was nothing to be arranged but the disposition of the house at Old Ford, or something respecting the manufactories in France, what had he to do with Jackson in Ireland? But you observe, he furnished him with money after he had declared his intention of going to Ireland; he corresponded with him in Ireland—and this was done after he had been completely put upon his guard, by the conversations with Mr. Sheridan, Mr. Towgood, Mr. Rogers, lord Lauderdale, major Maitland, Mr. Smith, and all the other persons who have given evidence upon that subject. He must have communicated to Mr. Jackson that very paper, or nearly that paper, which he received from Mr. Vaughan, after he had assured two or three of these gentlemen, that he would not make any communication of the intelligence he was then obtaining, if his friends thought it improper. Yet, several of his friends having thought it improper, he still communicated the intelligence.

After Mr. Jackson went to Ireland, a letter was written by him to Mr. Stone, dated the 5th of April, 1794; and this letter seems to me, with the answer, and the letter which followed, to be most clear and decisive proof of all that we assert; and to show clearly, that Mr. Stone was cognizant, not only of the nature of Mr. Jackson's purposes in this country, but also of his purposes in Ireland.

That letter from Mr. Jackson to Mr. Stone, of the 5th of April, 1794, is written in the fictitious name of Thomas Popkins. It is said that Mr. Jackson was afraid of his creditors, and therefore he took the name of Popkins.

It was not necessary that he should assume the name of Popkins, when writing a letter to Mr. Stone, in order to conceal himself from his creditors. Unless he was apprehensive that his letters would be opened, there was no reason whatever to subscribe the name of Popkins to that letter. The fear of his creditors might be a reason for not having a letter directed to him in his name of Jackson, or for not using his own hand-writing in directing a letter; but there could be no reason for his signing the name of Popkins, but to prevent detection in case the letter should be opened at the post-office; and, under whatever embarrassment his affairs might be in this country, there is no evidence that they were in any degree of embarrassment in Ireland. Supposing, however, they were also so embarrassed in Ireland, *this letter was directed by Mr. Cokayne*—it could not lead to a discovery by the hand-writing in the direction; and therefore the name of Popkins was not necessary for the purpose of concealment from his creditors.

In this letter he says—" If you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me, as the assizes at Cork are about to commence." Gentlemen, those expressions, it is acknowledged, have no relation to any family at Shields; and it is impossible to give the words any other interpretation whatever, but that which seems to have been in a degree admitted by the counsel for the prisoner to be the just interpretation; namely, that by the family at Shields was meant the government of France. Then, if the family at Shields be taken to mean the government of France (and I am sure you cannot put any other construction on the words, especially when you read the answer to this letter), the passage runs thus:—" If you have any letters from the government of France, which regard the affairs of that government in this country, you cannot too soon inclose them to me." Does not that perfectly correspond with what was the fact with respect to Mr. Jackson; namely, that Mr. Jackson did expect letters from his agents under the French government, and that those letters were to be transmitted to him through the channel of Mr. Stone? Now, what affairs could the government of France, or could any person figured by these words—" the family at Shields"—have in Ireland, with which, to the knowledge of Mr. Stone, Mr. Jackson had any concern, except the very purpose which we attribute to Mr. Jackson; namely, that he went into Ireland for the purpose of obtaining intelligence with respect to the state and situation of that country, for the use of the government of France? and the procuring that intelligence, which he did in fact obtain upon those subjects, appears to have been the only business whatever which Mr. Jackson had to transact in Ireland.

There is added to this letter a postscript:—" I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed." My friends admitted that they could not insult your understandings so much as to pretend to say, that these words related to any commercial transactions whatever.

Mr. *Erskine*.—I beg your pardon, you mistake.

Mr. *Solicitor General*.—The learned serjeant did expressly—and have they attempted to give any account of any commercial transactions? It was very important that some account should have been given of such transactions, if any could have been given; and it cannot be said there has not been sufficient time for the purpose. And with respect to this particular letter, it is perfectly clear that the gentlemen have been in full possession of it, and indeed of a very great part of the evidence in this cause, for a considerable time; this letter, as well as other important parts of the evidence, having been given upon the trial of Mr. Jackson, and having been long printed and circulated. There could, therefore, have been no difficulty whatever in being prepared with evidence upon this particular subject, if any such evidence could have been given.

But, gentlemen, the answer which is given to this letter by Mr. Stone, shows most clearly that this enigmatical language was perfectly understood by him. And here I must observe, Mr. Stone subscribes his answer—" William Enots." Was Mr. Stone afraid of Mr. Jackson's creditors? or for what purpose did *he* sign the name " William Enots?" For what purpose could he sign the name Enots but this purpose; that if the letter should be intercepted, it should not immediately strike that the name was William Stone. It is but a slight covering, because the letters are only reversed; but still it is not as written his true name; and no reason has been assigned, and I am persuaded none can be assigned, for making use of that subscription, unless he did it for the purpose, to a certain degree at least, of concealing the correspondence. The answer which Mr. Stone thus gave to this enigmatical letter of Mr. Jackson, decisively shows his full knowledge of the purpose of Mr. Jackson:—" Dear sir, I yesterday received your's of the 5th instant; I am happy you find yourself so agreeably situated where you are. I have received no letter for you."—What was the question that was put to him?—" If you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon inclose them to me."—My friends said there was no answer to that part of the letter. You observe there is an answer, a decisive one. The answer is, " I have received no letter, therefore I cannot inclose you any." For what purpose was Mr. Stone to receive letters for Mr. Jackson, except the purpose of the persons in France, from whom he was to receive in a

circuitous way, and communicate to Mr. Jackson that which he wanted to know? It afterwards appears, if you recollect, that there was a letter sent by Mr. Stone inclosed in a cover to Mr. Jackson, and that that letter did come in the manner in which Mr. Jackson expected letters to come to him. Mr. Stone's letter proceeds: "I have received *no letter for you*; but the day after you left me, *I* received one to say your first letters were received. I have received another since, in which mine was acknowledged which I wrote the post after Gillet was with us, but no mention was made of any other." Then come the words, which I think you must be convinced allude to correspondence that Mr. Stone had with John Hurford Stone, "I have not made use of what you left with me:" What he left with him is mentioned in the letter of the 5th of April, "I must request you not to make use of any of the addresses I left you," he answers, "I have not made use of any of them." The reason given in Jackson's letter why he should not use the addresses, is "the price and nature of the articles being entirely changed," the answer is I have not made use of what you left with me. What a wonderful change there is in the family." Following immediately the passage, noticing the addresses which were left with him, and adopting immediately the language of Jackson's letter of the 5th of April. "What a wonderful change there is in the family. Will it tend to good?—I confess I think better of it now than before. I want what you possess, a knowledge of the several branches of it, to form a proper judgment of their conduct in the last fracas." That you see is conceived exactly in the same sort of mysterious language in which the letter written to him by Jackson was expressed, and it corresponds perfectly with that letter. When two persons write to each other in cypher, it must be supposed that they each have a key, or how are they to understand one another. If this letter, instead of being written in this enigmatical language, had been written in a cypher, you would have no doubt but the person to whom it was addressed had the key of that cypher—so if a letter had been written in cypher by Mr. Jackson to Mr. Stone, you would have had no doubt but Mr. Stone had the key of that cypher; for no man would be so absurd as to write to another a letter which he could not understand; and this sort of enigmatical language which is tantamount to a cypher, must have been previously agreed upon between them, and they both must have had something which gave them the clue, something of the nature of a key to a cypher. Then he adds, "political affairs seem taking a strange turn, if we take into our view the great whole—I cease to wonder at any thing," and then he goes on, talking openly with respect to politics, upon subjects on which there was nothing whatever to raise observation, if the letter of Popkins had been intercepted, had been copied at the post office, and then sent on to Mr. Stone. Mr. Stone knew he was perfectly safe in writing this last paragraph, because it had no allusion to what was mentioned in the letter of Popkin; and if the enigmatical language in Popkins's letter was not understood at the post office, his language would also not be understood. He therefore writes in enigmatical language that part of his letter which is in answer to the letter of Jackson, and the rest in common plain language. Can any thing prove more decisively than this circumstance, that Mr. Stone was perfectly aware that Mr. Jackson was upon some business in that country, respecting which the language that was to be used in the correspondence between them was not to be open—was not to be the common language used between man and man, but to be couched under some degree of concealment? You observe he expresses here his opinion of the change. You will recollect the change which took place in France in the month of April 1794, and he expresses his opinion that it would be better than it was before that event.

Mr. Jackson might very well hesitate; because as he was acting for the persons who were conducting the government of France at the time he quitted that country, he might very properly say, when there was a change in the governors, "I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed," meaning—there has happened a change of things in France, therefore do not send any letters by the addresses I have left with you at present. This was extremely natural for him to do; and in answer, it was also natural for Mr. Stone to make that sort of observation which I have stated to you. Then Mr. Stone adds a postcript, "since writing the above, I have received a letter in which is—"I have received our friend's letters, and you must tell him that having given them to the proper people, he must in future address his friend Nicholas and not me"—and in the conclusion he particularly requests he may not be written to. I feel particularly happy that the several letters have been received, and I trust that even in the peculiar circumstances of *the family* they will produce proper effects." Is not this perfectly intelligible the moment you conceive *family* to mean the government of France? I trust that even in the peculiar circumstances of *the family*—that is in the peculiar circumstances which have happened *in France*—that these letters will produce proper effects—adverting in this letter to a letter which had been received by William Stone himself from his brother, and transcribing a paragraph in that letter shows the clear connexion in all these transactions with John Hurford Stone, in whose letter of the 30th of March 1794 you will find that very paragraph. "I have also received our American friend's letters, and you must tell him that having given

them to the proper people he must in future address his friend Nicholas and not me." And does not this most decisively and unquestionably show, that the letters which were transmitted by Mr. Jackson were, to the knowledge of Mr. Stone, to be communicated in some way or other to persons in the government of France, and that the intelligence to be procured by Mr. Jackson in Ireland, was to be communicated in the same way? This my learned friends may call nice reasoning; but it seems to me to be inevitable conclusion from the circumstances which are before you. My learned friends endeavoured to explain these letters. They took a great deal of pains upon the subject, and you must observe that all the pains they took were utterly inefficient for the purpose.

There was a third letter which my learned friends say is of no sort of consequence, that is the letter of the 22nd of April, which encloses the letter signed N. M. That letter is in very few words. You will recollect that the letter of the 5th of April had desired that if any letters from the family at Shields should come, they should be immediately forwarded to Mr. Jackson at Dublin. In the letter of the 11th of April, Mr. Stone says he has received no letters; but in the letter of the 22nd of April, he merely says this—"I received the enclosed to-day. I have not heard since I wrote last to you. I am yours truly, W. Enots." And this is directed, as well as the others, to Thomas Popkins. Why addressed to Thomas Popkins? It could not be to conceal Mr. Jackson from any of his creditors, because it was enclosed under a cover to John Cokayne, esq. at Hyde's Coffee-house, Dame-street, as Mr. Jackson himself had desired in his letter of the 5th of April, 1794. The outside cover would not show that this letter was for Mr. Jackson. Therefore there was another reason for putting the name of Popkins here. The object must have been to conceal the name of Mr. Jackson, in case the letter should be opened at the post office. It is not pretended that Mr. Jackson went by the name of Popkins, either in Ireland, or in this country, or that the name of Popkins was used for any thing but this particular correspondence. Mr. Jackson in his letter of the 5th of April says—"If you have any letters from the family at Shields which regard their affairs in this country, you cannot too soon inclose them to me." In Mr. Stone's letter of the 22nd of April, he encloses a letter to Mr. Jackson, which he says he has just received. You recollect the circumstance mentioned by the witness who produced this letter; and it is a circumstance simply for your consideration; the double wafer which the witness observed on first inspecting this letter signed N. M. Whether this letter was or was not opened by Mr. Stone, is only to be inferred from that circumstance. The letter is directed to Mr. Johnson, at Messrs. Lawrence and Company, Rutland-place, Thames-street, London. It is expressed in the same sort of enigmatical language about the family, as the letters of the 5th of April, and the 11th of April, between Mr. Stone and Mr. Jackson. It is signed N. M.; and from another letter, which you will recollect was written by Mr. Cokayne, by the direction of Mr. Jackson, though in the name of Popkins, and by the direction of Mr. Jackson sent to the French government, it is perfectly clear that the writer of this letter was a person of the name of Nicholas Madgett, and was the person described by the name of Mr. Nicholas in the letter of Hurford Stone. It is certainly true that on the trial of Mr. Jackson, the name of Nicholas* was supposed to have been used to denote a department in the government of France, not as being the secretary of the war department, as has been pretended, but merely as denoting a part of the government of France.

This letter, from its contents, you can have no doubt, came from a person in France; and you also can have no doubt that it was written for the purpose of encouraging Mr. Jackson to get that sort of intelligence which he went to Ireland for the purpose of obtaining.

There is another letter from Mr. Jackson to Mr. Stone, of the 21st of April, which was stopped at the post-office, and which certainly never came to Mr. Stone's hands. It is said that Mr. Stone can in no degree be affected by it, as it never came to his hands. He can in no degree be affected by it as a letter coming to his hands; and yet it is a letter which I conceive is material evidence in the cause. For the contents of the letter show the manner in which Mr. Jackson, by whom it was written, understood Mr. Stone's letter of the 11th of April, 1794; and the manner in which he understood it, is precisely the manner in which we now represent that it ought to be understood. He says, speaking of not receiving letters—"I do not see any thing in the late change of fashions which alters my opinion of the stability of the new institution, particularly as the principal persons who superintend it I never have been able to detect in the slightest deviation from the line of consistency. The rest have all, at times, been suspected of sinister motives and tergiversation." Is not that a direct answer to the question put by Mr. Stone in his letter, with respect to the temper of the new French government? Mr. Stone seemed to think it would be for the better. Mr. Jackson concurs with him in that opinion. Mr. Stone refers to Mr. Jackson as having superior knowledge upon the subject. Mr. Jackson gives the effect of that knowledge. The letter proceeds—"*The state of manufactures in England which your friend drew out, and which you so obligingly gave me,* is very just, as far as it re-

* But see the opening speech of the attorney-general of Ireland on the trial of Jackson, p. 813 of this Volume.

lates to England; but the principles of the people with regard to trade, their opinions as to a change to be brought about by industry and co-operating exertion, are so totally different, as to throw all comparison out of the question. *I am promised by an eminent and very sensible manufacturer, a statement of the manufacturing branches here, which will gratify you.*" And then he proceeds in the same enigmatical language, which you cannot suppose that Mr. Jackson would have addressed to Mr. Stone, unless Mr. Stone had the key which was to lead to the explanation of it. It is absurd to suppose it. You must suppose Mr. Jackson to have been a downright fool to have written this letter to Mr. Stone, which Mr. Stone, according to the representation now made to you, could not understand. But when you read Mr. Stone's own letter of the 11th of April, 1794, you can have no doubt but that he could understand this letter. In looking through the different State Trials, I believe you will find that this sort of commercial language, and language of law suits, has been so constantly used, that it is astonishing it should still continue to be used by persons who mean to conceal their correspondence; but it has been used only by persons who wish to veil their correspondence. Mr. Jackson in this letter adds, "I shall obey the instructions of your sister-in-law, by not writing to her, which does not, however, preclude me from requesting that when you write, you will remember me in the most affectionate manner to her, and Mr. Nicholas. *Let them know where I am, and that I am doing every thing in my power to serve Mr. Nicholas, and give him satisfaction in bringing his affairs to the issue he wishes.*"

Now here is a letter written by a person, proved to have been engaged in a conspiracy, upon the subject of that conspiracy, to a third person, charged to have been a party in the same conspiracy, though the letter never came to the hands of that third person. My lord will state to you the effect which that ought to have. It is a long letter, proceeding in the same sort of language as that to which it was an answer; and I think it is impossible but that you must be convinced that this letter was written by a person who knew that the person to whom he addressed it had a key which would lead him perfectly to understand all the enigmatical language which it contains—and it seems to me impossible, under the circumstances, that any person should hold correspondence with Mr. Jackson, in Ireland, in that sort of enigmatical language, capable of the explanation which I have given it—which I think the true explanation, but you will explain it in the way in which you think it ought to be explained—it seems to me impossible that such correspondence should have passed between Mr. Jackson and Mr. Stone, without Mr. Stone's being aware of the purposes for which Mr. Jackson went to Ireland. In the nature of things this appears to me to be impossible.

Gentlemen, besides all this, let us recollect for a moment the evidence which was given by Mr. King. When Mr. Stone was arrested, he was told, as Mr. King states, that if he would deliver up the correspondence with Mr. Jackson under the names of Popkins and Enots, the residue of his papers would not be disturbed. *He denied that he had any such correspondence.* The information that led to that question would of course lead the under secretary to search for such a correspondence. He found a letter—certainly not particularly concealed, nor was there any reason to conceal it in Mr. Stone's study at that time? because, amongst his own family, or persons who ordinarily might have recourse to his papers (unless he is to be supposed to have been aware that he would probably be taken up) it was not likely he should conceal that letter in any way whatever.—There it was found.—Now is there not a degree of consequence attached to this correspondence by the very circumstance of that denial, which makes it impossible for you to hesitate in your minds what inference you ought to draw from it? And you will recollect likewise the extreme labour of my learned friends in their very able defence (and I am sure you will be certain at least of this, that if Mr. Stone fails upon this trial, he will not fail for want of abilities to defend him), that all their exertions have been utterly unable to give you any reasonable and consistent explanation of this transaction, under the names of Popkins and Enots: the correspondence between Mr. Jackson and Mr. Stone, under these names; the enigmatical language in which it was conducted; and the denial by Mr. Stone of the fact of any such correspondence.

These circumstances are, I think, extremely strong, to confirm you in that opinion, which it seems to me you ought to draw from the mere simple statement of the case I at first made to you. But, gentlemen, what is the *nature of the intelligence* which is given even with respect to England? Is it any other than this? "Do not attack our main posts; they are too strong. As to some out posts, they are weak enough."—Suppose a general of an army were to intercept a letter from one of his officers to an officer of the enemy to that effect; would he conceive that letter to be of the nature of treason to that army or not? "Do not attack our main force; we are too strong, too united in the main body; but there are some out posts that are weak enough." Gentlemen, it appears to me that merely obtaining any information whatever, with respect to the sentiments of the people of this country, in order to communicate to the French government, could have no object but to be useful to the French government. It strikes me that no man could possibly have communicated that sort of intelligence to the government of France, without having an impression upon his mind that it was to be useful to that government, by directing

rations to that quarter in which they would be most successful. If it was merely to prevent their throwing away their strength upon a quarter too strong for them, that alone is conveying useful and important intelligence to an enemy. But if, in addition to that intelligence, certain weak parts are pointed out—and if it is farther suggested to the French government what sort of conduct and language they ought to hold in their Convention to induce the people of this country to be discontented with their own government—if this is particularly recommended to their attention, the intelligence so communicated *must have been intended to be useful to the enemy.*—It seems to me impossible to say that particular intelligence, communicated to an enemy, unless it was false, was not intended to be useful to the enemy.

You must recollect an expression in Mr. Hurford Stone's letter of the 15th of March, 1794; in which, speaking of Mr. Jackson, it has been doubted whether the expression is "*assist*" or "*correct* his views." I think the word was "correct." But if the expression was "correct his views;" if the views of Mr. Jackson were, as they undoubtedly were, those of obtaining intelligence; if the prisoner was to correct his views with respect to obtaining intelligence relative to this country; correcting them, and making them right, was making them most useful and beneficial to the French government. Gentlemen, some observation has been made with respect to the alterations made by Mr. Stone, in Mr. Vaughan's paper; and especially, it has been observed, that that part was scratched out which stated that there was no force in the country, except the militia, and some cavalry upon the coast. Gentlemen, scratched out as it was in Mr. Vaughan's paper, produced in evidence to you, you will find that in the letter of Mr. Jackson of the 17th of March, 1794, communicating to his correspondent abroad the substance of this paper, the only parts of this passage omitted are "the cavalry," and "the troops on the coast." The substance of the passage is fully stated in that letter.

Mr. Serjeant *Adair.*—That letter Mr. Stone never saw.

Mr. *Solicitor General.*—The letter communicates other parts of Mr. Stone's information contained in that paper, attributed to Mr. Vaughan; and you are to form a judgment for yourselves, gentlemen, whether Mr. Jackson did or did not see that paper of Mr. Vaughan, either in the state in which it was written originally, or in the state in which it now is; for the passage is now perfectly legible, though a line is drawn through it. There are parts which are added by Mr. Stone himself in his own hand-writing to Mr. Vaughan's paper.—I beg leave to request that when you look at that paper, you will have the goodness to observe what was the *temper* with which those parts which were *added by Mr. Stone* were so added; and whether the temper of mind of the person who wrote those additional parts, was or was not friendly to the government of this country.

Gentlemen, I think I have now pretty nearly gone through the observations which I intended to make to you, for the purpose of showing, that it was impossible that Mr. Stone should be ignorant of the nature of Mr. Jackson's views; and that Mr. Stone acted with such a degree of misrepresentation and concealment, with respect to Mr. Jackson, that it is impossible but he must have been aware that the purpose of Mr. Jackson, and the occasion of his being here, were not innocent—that they were such as we state them to have been. You will farther recollect, that he pretended, in his conversations with the gentlemen who have been examined, *that his brother had represented to the French government*, that the idea of an invasion was absurd; that the temper of the people of this country was very different from what they imagined it to be; and that his object in desiring to be furnished with opinions upon the subject was to convince the French government of the truth of his representations, and that he thought that if they were persuaded he had truly represented the temper of the people, he might prevent an invasion.

Gentlemen, you would have expected, therefore, in the several letters of John Hurford Stone produced to you, to have found numberless representations to that effect. A constant course of correspondence has been produced to you, beginning a considerable time before Mr. Jackson came to this country, and continued during the whole time of his residence here, and in Ireland, and until after his arrest.—In any one of those letters, can you recollect any such expressions? I am sure I cannot—On the contrary, is not the general language of Hurford Stone's letters of a very different import—that if an invasion should take place, the success would be inevitable, and the destruction of Mr. Stone's property the consequence, and therefore, advising him to take all his property out of the country? There is certainly a degree of mystery in many of his communications upon the subject, and he says, the mystery would be to be explained by Mr. Jackson; but there it nothing to lead you to conclude that there is any ground for these representations of Mr. Stone, that his brother had constantly represented to the French government, that an invasion was absurd, and that the temper of the English people was different from that which they understood it to be.

Gentlemen, there remains, I think, only one thing more which I wish to observe upon, and that is, that Mr. Stone made no communication to government, whatever, upon this subject. It is said, that he mentioned it to the late general Murray, a person connected with government. Did he mention any thing more to general Murray than he mentioned

to Mr. Sheridan, and the other gentlemen, who have been examined? Did he say, "Here is an American, come over for the purpose of obtaining intelligence to convey to the government of France. He is a person who goes by the name of Jackson, and represents himself as an American merchant. He lodges at such a place. If he is a suspicious person, take him up." Was not that the sort of communication which Mr. Sheridan and the other gentlemen meant, he should give to government? They told him clearly, "This is a suspicious person."——"If you think that he is a man with whom you may communicate, you are imposed upon (said Mr. Sheridan) and, therefore, go to government and inform them that there is such a person in the country, that they may at least watch his motions." That was the degree of information, which ought at least to have been given. Whereas there was no sort of information of that kind given to any person. The name of Jackson was mentioned once or twice, I believe, to Mr. Smith—but Mr. Jackson was mentioned as an American merchant, and nothing more; and no person would have thought to look for an American merchant otherwise than in a mercantile situation; certainly not as lodging at the Buffalo-tavern, Bloomsbury.

Besides, gentlemen, Mr. Stone not only did not communicate to government, intelligence important for its information, under the circumstances which I have stated; but he did not communicate intelligence in his power, under other circumstances which I will state to you—he did not even fairly communicate intelligence in his power, when he affected to communicate to Mr. Pitt, in April, 1793; and in his letter of that date, you will recollect he stated to Mr. Pitt, that if any farther important intelligence should come to him, he would communicate it to Mr. Pitt. No such communication was ever made, upon any subject whatever after that time, as far as we can trace; and certainly they have not, on the part of the prisoner, attempted to trace any such intelligence. It is said, that Mr. Pitt treated the intelligence given in April, 1793, slightly, and wrote a cold letter upon the subject. On the contrary, Mr. Pitt's letter appears to me to be a very civil letter, especially if you look at the extracts sent to him by Mr. Stone, and see what they communicate, and observe whether they communicate any thing of importance at the time at which it was communicated. But, gentlemen, if you will look a little farther—if when you look at some of the extracts, you will notice at the same time the letters from which the extracts were made, and especially the two letters to which your attention was particularly called, those of the 24th of October, and the 27th of November, 1792, I think you will find that Mr. Stone, in that communication to government, did not act as a man perfectly friendly to his country. If he meant to communicate any thing to government, he ought, at least, to have communicated all he knew upon the subject; and if he meant to make any effectual communication to government, he ought to have disclosed the temper of the person who gave that communication. Now, it is admitted, that he altered the language of Mr. John Hurford Stone's letter, to a language less offensive, constantly changing the word "we," for the words "the French," and so on—But besides this material alteration, he omitted very considerable and important passages.

The letter of the 24th of October, 1792, says—"The letter I sent you of the retreat of the Prussians, was, I am certain, the only information of the event to be had then in London; for the news arrived at the Assembly at half past twelve; I heard it in the street from a deputy; a minute after I ran into the box which I have there, and spoke with one of the secretaries; and at one the post went off to Calais, and my letter was put, with one I sent to lord Lauderdale, who conveyed it to Fox, at Newmarket, on board a boat that was then going to England." This passage was communicated, but in a mutilated state. It was preceded by these words—"You will have received from Verdun, an immense packet of information, which you will have distributed according to the addresses." He did not communicate that part of the letter.—Why did he not communicate it? If he was to communicate information to government, it was a strong thing to say, that this immense packet of information was not to be communicated; but if this passage had been inserted would it not have led government to inquire where this immense packet of information was? In the same letter Mr. Hurford Stone takes notice of the retreat of the Prussians, and of the manner in which the French were following that retreat: and he adds, that which (if you recollect the circumstances of the country at the time) it might be extremely important for government to know, but which Mr. Stone did not communicate. He did communicate the passage which stated the retreat. Of what use was communicating this intelligence of the retreat of the Prussian army, at the time it was so communicated? The retreat was a fact, which had been then long universally known. But there followed immediately, in Mr. Hurford Stone's letter, another circumstance which is of a very different nature, and which Mr. Stone does not think proper to communicate. After speaking of the defeat, he says—"I will not assert it as a fact but I believe it most firmly, that the only condition accepted by Dumourier, was, that the royal family should not be put to death; whilst, on our part, it was insisted that Prussia should immediately, on its leaving the territory of France, abandon the House of Austria, and even form an alliance with us, or submit the army and the prisoners to the arms of the republic."

be not the present state of affairs I never was more deceived; and all the conversations I had with the generals, with the commissioners of the Convention, &c. &c. lead me to this belief."

Gentlemen, that was something which it might be important to communicate to government, supposing it to be true; namely, that that sort of stipulation had been made upon this occasion, which would lead to the defection of the Prussian arms from the general alliance. Not a single word of that part of the letter is communicated. There is another passage to the same effect—"Before I close this part of my letter, I would add, in confirmation of my opinion, that Prussia will be the ally of France." That would have been a very important piece of intelligence, supposing it to be true. But that Mr. Stone does not communicate. What he does communicate could be no sort of intelligence. He therefore, certainly received a civil letter only from Mr. Pitt; because if you look through the extracts you will see that it was impossible for Mr. Pitt, at the time they were sent to him, to collect from them any intelligence whatever which could be of any use.

The extract which he sent of the letter of the 27th of November, was nothing more than this—"I believe that I mentioned to you that we had a dinner on Sunday se'nnight, to celebrate the French victories, and that an address was to be presented to the Assembly—that is to be done this morning, I was chosen president, and orator, but I have declined both." This extract was probably given for the purpose of showing that Mr. Hurford Stone declined being president and orator of the meeting. The passage is taken from a very long letter. In the passage extracted, after the words, "I have declined both," the letter adds, "for the reasons you hint at, and for others also." Mr. Hurford Stone, therefore, conceived it necessary to make an apology to his brother for declining being the orator at this meeting; not as the extract would lead you to suppose that it was his wish to do so at all events, and without any qualification whatever. Then there is a long passage in which he states, that he dined with Kersaint; and speaks of the fraternity which was offered by the French—You will probably recollect the character of Kersaint, and the part which he took at that time—and then he states particularly what passed in the Assembly upon that subject, and what was the result of the confidential conversation which he had with Kersaint. If any thing was important to communicate in this letter, it must have been that confidential communication with Kersaint. But not one word of that is contained in the extract—If this gentleman meant fairly to communicate to government, he certainly would have communicated the parts of this letter which he has not communicated, and not that only which he did communicate.

Gentlemen, these are the principal things which have struck me in this case. There are, certainly, many others which I ought to observe upon.—With respect to the character of this gentleman, with respect to those with whom he acted, with respect to the situation of Mr. Jackson, the small credit given him—all of which have been observed upon by the counsel for the prisoner—it seems to me that they cannot have any very considerable effect upon your consideration. With respect to the last—the small credit in point of money—I think it was about 540 louis-d'ors, which it is stated Mr. Jackson had from the prisoner's brother, Mr. Hurford Stone. It is said that spies commonly have a much larger allowance. The result of that remark would be to prove, that Mr. Jackson was not a spy. Now all the evidence has proved that fact decisively. Therefore, that remark amounts to nothing at all; and, I think, upon the whole, you will find, when this evidence shall be more particularly stated to you, by my lord, and you shall come to examine it yourselves, coolly and deliberately, that every part of the evidence corroborates the general impression which I first attempted to state to you; namely, that it is perfectly clear that Mr. Stone knew that Mr. Jackson came from France—knew that his object was, to gain intelligence—knew the particular nature of the intelligence which he wished to gain, and that that intelligence was to be communicated to the French government—and being so communicated to the French government, it must have the effect (if it were true intelligence) of being in some degree useful to the French government; and communicating intelligence to the French government is the very crime imputed in this indictment.

A difference is attempted to be made between the transactions in England and those in Ireland. It is said that the purposes of Mr. Jackson in England may have been perfectly innocent, whatever his purposes in Ireland were. The difference in the transactions is only this; the representation made of the state of England is, that an invasion of this country would probably not be successful; the representation with respect to Ireland is, that an invasion might probably be successful. It has also been said, that there is no distinct proof that the representation of the state of Ireland was ever communicated to Mr. Stone—certainly there is not. But the inference which it seems to me you are fairly to draw from the whole evidence is, that the object of Mr. Jackson (with the knowledge of Mr. Stone) was, to procure intelligence in the manner, and for the purposes, which we have stated to you; and the whole of the objection to the conclusion which we draw from the evidence, is only this; that the result of the intelligence obtained with respect to one country, is different from the result of the intelligence obtained with respect to the other; and that it is not clear that the intelligence actually gained, with respect to Ireland, was

distinctly communicated to Mr. Stone, although it clearly appears that he was distinctly informed, that intelligence was sought for, and *some* intelligence was gained in Ireland for the purpose of communicating such intelligence to France: and if you are of opinion, that intelligence was sought for in either country, with the knowledge of Mr. Stone, for the purpose of communicating such intelligence to France, in order to serve the enemy, the guilt of the prisoner is complete.

Gentlemen, I am sorry I have detained you so long. I intended to have made some observations upon the manner in which the evidence applies to the indictment, stating to you, particularly, the overt-acts laid in the indictment, to which the evidence applies; but this you will necessarily hear from his lordship; and, therefore, I will not trouble you any farther.

SUMMING UP.

Lord *Kenyon*.---Gentlemen of the Jury: This cause has engaged your attention for a long space of time; and indeed, in the annals of Westminster-hall, there have been very few causes that have occurred, that have occasioned such an adjournment as took place last night; it was reserved for the necessities of modern times, to consume so much time as has necessarily been consumed, to lay before juries, properly, cases of the great importance that this case is; for it is impossible to impress too much on your minds, the importance of the cause. It has, on each side, been impressed upon you---by those who prosecute for the public, and by the counsel for the prisoner at the bar. On the one side, every thing that is dear to the prisoner is concerned; and, on the other side, every thing that is dear to the community is concerned. Societies---considering the corrupt nature of man---societies cannot keep together, without penal laws, and the sanctions of punishment; they have existed in all polished countries; they have been found necessary; and if they have been found necessary to be enacted, it is necessary that they should be executed, whenever offences exist.

I agree with the learned gentleman, and every man of humanity must agree, that the wishes of every humane man are, that guilt may not be fixed upon any man; but I confess, I am one of those who have not the weakness---which weakness, a judge at least, and a jury, must get rid of, before they fit themselves to fill the respective stations which they are to fill in the administration of the justice of the country---I say, therefore, I am not one of those, who wish, under false compassion, inconsistent with the administration of criminal justice, that a person, on whom guilt is fairly fixed, should escape the punishment which the law annexes to his guilt.

Gentlemen, I hope you are come to consider this case, at a time which I dare say you are, when your minds and your bodily strength are not wearied sufficiently to prevent y from proceeding to discuss it, and to form that judgment which now at this instant certainly none of you have formed upon the case, because it would be premature. I cannot but lament a little, that, in my own case, I certainly do feel a very considerable degree of fatigue; but the duty is cast upon me, and I will perform it as well as I am able.

The offence imputed to the prisoner at the bar, is the highest offence which can be committed in society; namely, an intention of demolishing the government, which keeps civil society together, and, instead of rule and order, converting all into misrule, anarchy, confusion, and no government at all, by overthrowing and annihilating the government which does at present keep this community together.

The statute of treason, which has existed upon the statute-book for some centuries, has delineated, in plain terms, and in terms at least upon which the constructions have been uniform, what treasons are, and those two which are imputed to the prisoner at the bar, are---compassing the death of the king---and adhering to the king's enemies; and it has been very fairly admitted, by both the learned counsel for the prisoner at the bar, that the evidence which has been given, is evidence advancing at least to a degree, to charge him with the offences under both the counts in the indictment. It certainly was properly so admitted, because such has been the construction in all times; and one should be sorry to see, upon questions which so materially affect every body, shifting opinions by those who are to deliver what the laws are, to the subjects who are to be governed by them.

Gentlemen, it does appear to me, that the justice of this case will be perfectly satisfied by my calling your attention to the second count contained in the indictment; namely, that which imputes to the prisoner, that he adhered to the king's enemies; and that for the aid, assistance, direction, and instruction of the enemies of the king, as to their conduct and prosecution of the war, he sent them certain communications.

It has been decided by the highest authority, and no person doubted the law when it was laid down, and no person has doubted the law since---I choose to give it in the words of my lord Mansfield, at a time when the court was filled by judges, as able, and as willing to protect the civil liberties of the subject, as ever adorned a court of justice; and with their concurrence he thus laid down the law to gentlemen who stood in the place in which I now have the honour of addressing y

"Letters of advice, and correspondence intelligence to the enemy, to enable annoy us, or to defend themsel and sent in order to be deliver constitute the crime of trea to the king's enemies."*

* See Hensey's case, and

It was very properly stated by the learned counsel for the prisoner, that it is the happiness of this cause, that neither upon the law of the case, nor upon the evidence which has been adduced on the behalf of the prosecution, has there been any dispute whatever. The law is agreed to as laid down. All the evidence that has been laid before you, comes unquestionably as evidence which you may listen to in point of law. It has been attended and checked by two gentlemen, most eminent in their profession, and has passed muster with them. It became me, if any doubts arose in my mind, to state them. I expressed my doubts when I had any; and, undoubtedly, if they had incautiously let evidence pass, which I thought ought not to have passed, I should have expressed my doubts to the learned judges, whose assistance I have the happiness to have upon this occasion, if any doubts had occurred to me.

I have stated what are the charges in the indictment, and what the law is. This case has been discussed by the counsel on both sides; the evidence has been given, and it waits for me to do that which it is my bounden duty to do---to assist you, as well as I am able, before you deliberate upon the cause. It would have been my duty, if I had seen that the counsel for the crown bore hard upon the prisoner, to have rescued him from improper suggestions. It would have been my duty also, if I should have discovered that infinite eloquence—that ardent expressions and infinite zeal, had probably had a considerable effect upon the minds of the jury, to give the jury an opportunity to pause before they went on to a conclusion; and to consider what conclusion ought to be drawn from the evidence given in the cause; for the evidence given in the cause is the only source of information to which you can refer; all the rest is to assist you in that, and, if it tends to confound you, and to lead you astray from that, it is all ill-done; it is of use as far as it leads you to understand and apply the evidence; it is all of a bad tendency if it has any other effect.

Gentlemen, I told you at the beginning, that the trouble which I should give you, would be very little indeed; every body before he endeavours to communicate knowledge to another, must some how or other have made up his own mind, not what are the conclusions to be drawn in the case, but as to the important points in the case, and, though it may be proper in the outset to bring intelligence from every quarter, in a cause, yet generally long before the cause gets to its conclusion, the great leading and prominent parts of the case are sufficiently obvious to every body; and whoever bends his attention solely to the small points of the cause, does not perhaps yield much assistance to those who are to judge upon it; but upon the great and small points of the cause, let me not presume to impose my judgment upon you; you are to see what are the great and small points of the cause. It is my duty to lay before you for your assistance, what appear to me to be the great points of the cause.

A great number of the letters which were read at the beginning of the cause: seem to me to have received a very proper construction from the learned gentlemen of counsel with the prisoner at the bar—they certainly were many of them letters really respecting a trade existing, and establishments in trade, meant to be carried on in France.—I verily believe it—I believe with them also, for it was expressly so said by the learned counsel, who first addressed you for the prisoner—and when I make an observation presently, it will appear—for if the concession had been made inadvertently, but surely it was not, it ought not to be abided by; but it appeared to me it was properly stated by him, that all that is said of the people at North Shields—of the assizes at Cork, certainly did not respect any commercial negotiations between those parties, but referred to something which one of the letters says is mysterious; for the language of one of the letters (No. 5), after it had been talking about a person who would come, says, the person alluded to will explain all mysteries; therefore, that there was something mysterious in these letters—that they were, as has been so often repeated, something enigmatial, beyond all controversy appears from the letters themselves.

Gentlemen, the letters present to us three persons, who also appear in every step that we take in the business; the prisoner at the bar; his brother, who, from the style of all the letters, and from every thing that has appeared in the cause, appears to be a person who considered himself as having exchanged his country, and having become interested in, and a well-wisher to France, in short, become a Frenchman; for whenever he speaks in these confidential letters to his brother, which were to be directed to the house (but not to be opened by the house) of the French, he calls them *us*, and of the people of England *you*, therefore he considered himself, it is pretty clear, though this is no very important observation in the cause, yet certainly he all along considered himself as a person who was domiciled in France, and wished to be understood by his domiciliation there to have become a member of the community in France. The third person was a Mr. Jackson, now no more, who also is admitted in the cause to be an agent for the French; how far his agency went you will consider in the sequel of the cause.

Gentlemen, I shall now lay before you the two emphatical and important papers in the cause; and I am authorized to lay them before you, because they are proved expressly, by evidence which is uncontroverted, to have been in the possession of Mr. Stone, and to have been in the possession of Mr. Jackson also, for in the custody of both of them these

letters are found; how communicated, the evidence which follows in the cause will present to you proof—whether decisive proof or not it is for you and not for me to decide.

The first of these is a letter, which is admitted on all hands to have been written by a member of the House of Commons, Mr. William Smith, to Mr. Stone, the prisoner at the bar. Gentlemen, I wish you would attend to this, though, indeed, I need not bespeak your attention—your attention has been marked throughout.

[Here his lordship read the letter.]

[*Vide* page 1239.]

This is the letter which was written by Mr. Smith; the other paper, which I also desire to call your attention to, and which, as I have before stated, was found in the hands both of Mr. Stone and of Mr. Jackson, is that which is said to have come from Mr. Vaughan to Mr. Stone, and got somehow into the hands of Mr. Jackson; that paper is this:

[Here his lordship read the paper.]

[*Vide* page 1236.]

Gentlemen, you have heard these papers, and in the sequel of the cause you are bound upon your oaths to consider whether they contain information which, if given to the French government, must be of use to them in the future progress of their concerns. As this indictment is framed, and as the whole cause is laid before you, it appears to me that your attention was rather led—and led—in a considerable part of the cause to a point which is not important in the cause; for it was supposed that the criminality of the papers rested in their tempting the French to invade the country—Nothing like it: if that was the only crime which might have been committed, perhaps it would be straining this paper too much to infer, when they state to the French in such formidable terms what the difficulties would be, that this letter at all tended to tempt the French to invade the country; but if any thing of that kind was said, it is necessary for me to state to you that that is nothing like the point in the cause.

I say, in the language of lord Mansfield, that if the communication made is a communication which may tend to be of any assistance to the subjects of another country to annoy this country, or to defend themselves, or to shape in any manner the nature of their attacks upon this country, that that, beyond all controversy, is high treason. I state this so positively because I know the learning and candour of the gentlemen, that nobody will suppose that I overstate it—Beyond all doubt it is so; therefore, if upon your serious consideration of these letters, you should find that those letters communicated any information to the French, being in a state of hostility with this country, and therefore every thing which helped to assist them drew back from the interest of this country; if you should find that, I do not mean to state that the offence is complete, till I have stated to you something else, and then it is for you to deliberate whether it is complete; but it is for you to look at these papers under the view and representation I have made of them papers, because it is what I am upon my oath bound to state to you; if I misstate it, I shall be corrected by the learned judges; and I shall not be sorry to be interrupted, if I state any thing that renders interruption necessary, because it never comes too late, when the blood of a fellow subject is at stake: but I am bound to do it; it is not a pleasant task, but thus circumstanced, unpleasant as the task is to any man of feeling, I must meet my situation and summon up my fortitude as well as I can, to discharge it as well as my faculties will permit me.

These papers being read, I will proceed to state at length the evidence which was given by the several witnesses who were called.—I shall not state the evidence of witnesses who found papers here and there, and proved hands writing, and those kind of things.

Mr. King, the under secretary of state, was called, and he told you what papers he found in the house of the prisoner, and where he found the several papers; and he tells you what the behaviour of the prisoner was when they were found—that he did not demonstrate any marks by which he could collect that he thought himself in a state of guilt: he tells you farther, that he asked the prisoner to produce the letters which were signed Popkins and Enots; and told him that if he would deliver those letters, his other papers should be delivered him again; in answer to which the prisoner told him, that he had no letters of that signature by him.

Gentlemen, the next witness who was called is Mr. Reuben Smith, whose evidence I believe I need not state.

The next witnesses were the persons from Dublin, who found the papers; but the next witness who gave any evidence important to the cause, was Mr. Smith a member of parliament. He says he has known the prisoner six or seven years—he says No. 12 (the first of the two papers I read), is of his hand-writing, and that he sent it to the prisoner; that he had conversation with the prisoner about a person of the name of Jackson, whom the prisoner named to him, and talked to him about; that he met the prisoner several times, sometimes at Freemason's-hall, and that at one of the meetings at Freemason's-hall the prisoner came to him, and said "My correspondence with my brother has been interrupted for a considerable time, but a person has lately brought me a letter from him, to which he requests I would send him an answer," he appeared to be much alarmed at that time, with apprehensions that [illegible] intended to invade this country: he if any means could be used

here the impressions there entertained, respecting the state of affairs in England, it might be advantageous. The prisoner expressed himself under similar alarm, he asked me what my opinion was upon the subject, I told him in effect that I thought he must be well acquainted with my opinion upon that point, because he must often have heard me express my persuasion that such an attempt would never be made, and I believe that I stated reasons similar to what appear in that paper. After some little conversation he told me he had had a conversation with Mr. Vaughan upon the same subject, that Mr. Vaughan had told him he thought there could be no impropriety in giving his brother that general information, for which he seemed to wish; and that Mr. Vaughan had given him a paper containing some of his opinions upon that head. He says, in the same conversation he showed me a paper, and asked my opinon, I told him I thought the opinions in that paper might be very true, or words to that purport, but that its expressions appeared to me, in many points of view exceptionable; he informed me he had shown it to several gentlemen, to lord Lauderdale and colonel Maitland among others, I am not sure that he mentioned any body else; that they appeared on the whole to think the paper was innocent, but had objected to many expressions in it; I am sure he gave me to understand, that he did not mean to make any use of this paper (Mr. Vaughan's paper), if upon consulting any friends they should advise him against it. I remember nothing farther material, except that I told him, that lest he should forget or misunderstand me, I would put down what I had to say in writing. He said an American gentleman of the name of Jackson, had brought him a letter—I did not know who he was, I understood from the prisoner that what his brother wanted of him, was, to know some gentlemen's opinions; I do not know that ever I saw him afterwards. Mr. Stone told me an American gentleman had come from his brother, in consequence of the interruption of their correspondence. He says the paper marked No. 11, with a cross, is the paper the prisoner showed him as Mr. Vaughan's paper, he believes it corresponds in language with that which he had seen; there were some scratches upon the paper, in the manner in which the paper shown him was scratched.

Upon his cross-examination, he says, he was not in confidence with the prisoner; he had been occasionally in his company at the house of Dr. Crawford, who married Mr. Stone's sister; he had seen him frequently at Freemason's-hall. Mr. Stone applied to him to get a bill passed in parliament, which he wanted to have for some private purpose of his own—he said the prisoner imposed no confidence on me; he acquainted me he had mentioned it to some other persons, and I believe he said he intended to mention it to more.

The next witness who was called was Mr. Sheridan, and it is essential that you should attend minutely to the evidence of Mr. Sheridan. Mr. Sheridan says that the prisoner, in March, 1794, applied to him at his house—that Mr. Wilson wrote a letter, in consequence of which the prisoner and Mr. Wilson came to him. He said, the prisoner wanted my opinion on something which had been communicated to lord Lauderdale and colonel Maitland, which he conceived might be of great public benefit; he said he had frequent communications from his brother in Paris, that he understood from him the idea of attempting an invasion in this country, was a plan resolved upon by the Executive Government of France; he thought from his brother that this plan proceeded from an ill-grounded opinion of the state of the public mind, and the prevalence of discontent in this country; the prisoner then proceeded to state, that the mode he would make this communication by, would be through a circuitous channel of communication; that he would through that channel undeceive the government of France, that he would give them the real state of this country, and convince them how little could be expected of any thing like assistance or co-operation from any description of men in this country; that he hoped the consequence might be their abandoning a project, evidently taken up on false information. The prisoner stated, that in order to affect this purpose, he had endeavoured to collect the opinion of several political characters in this country, whose opinion he thought would be likely to advance his object, and for this purpose he had had an interview with several gentlemen; he named Mr. Smith and others—he then mentioned that he had communicated with Mr. Vaughan, who had put down his sentiments in writing, and he produced a written paper of this opinion, which he said was Mr. Vaughan's, and began reading the paper. I said I did not like to meddle in the business, as I thought him likely to be imposed upon by the person who was the channel of communication between him and his brother, whom he had stated to be an American gentleman. I said that I had always made it a rule not to enter into any conversations of this kind, under the then circumstances, and politely begged he would excuse my listening farther: I told him he ought to have no communication with his brother at all, but what went through the secretary of state's hands, and that if I had been in Mr. Dundas's situation, I would take care that he had no communication with his brother, but what I should know; I told him the way to do good would be by a direct communication with his majesty's ministers; he seemed to hesitate, but I think he said he had had some communication with some of his majesty's ministers upon the subject; afterwards Mr. Sheridan recollected himself, and he says, he thought he said he had communicated something to

general Murray;—to be sure general Murray was no minister.

The next witness who was called was the earl of Lauderdale; he says, in March 1794, I had a communication with the prisoner, my brother was with me, I met the prisoner at a coffee-house in Bond-street, there was a conversation about the state of things in France, the prisoner pulled out a paper, which he read, and said it was given him by Mr. Vaughan; my brother expressed his surprise at Mr. Vaughan's giving him such a paper, he pointed out a particular passage, and asked if Mr. Vaughan had wrote this, the prisoner said, the substance was received from Mr. Vaughan; Mr. Wilson came into the coffee-house, there was some general conversation, and we left the room; I cannot recollect the passage objected to; I was much disappointed at the meeting, I thought it a very foolish meeting, and was sorry I had been there. His lordship says, I believe Mr. Stone never received any letter from my brother nor me; a letter was written by me, I believe to the prisoner, but was not sent. I believe No. 11, with a cross, was the paper communicated to me.

The next witness was Mr. John Towgood; he says the prisoner, in April, 1794, told him that he had seen a gentleman who was just come from Paris, who had brought him news from his brother; that this person had asked him about the state of parties in this country, and how it was likely the people would be affected towards the French in case of an invasion; the prisoner then said he thought it an opportunity of doing good to this country; that it was his opinion, that in case of such an attempt, whatever difference of opinion there might be on other subjects, there would be but one mind as to resisting any such attempt, in case it should be made; he farther said, he thought it would be doing good if this opinion should be forwarded to his brother in France by this American gentleman. I said it was a very delicate subject indeed to converse about; he said he would do nothing that should implicate him in any difficulty. The prisoner then read a paper expressing those sentiments that I have just mentioned; he farther said that he had mentioned it to some persons of consequence, among others, I think, he mentioned lord Lauderdale, Mr. Sheridan, Mr. Smith, Mr. Vaughan, and colonel Maitland, and the reason he gave was, that he thought it would be doing more good, if the opinion went sanctioned with those names, than if it was his opinion only. The witness says, some days afterwards I saw the prisoner again, who said that he had delivered the paper to the American gentleman, strongly expressing the sentiments I have just mentioned, and he expressed himself much satisfied, that by considerable pains and trouble, he had done what he conceived an essential good to his country, in preventing the attempt of an invasion, if such had ever been intended.

On his cross-examination, he says he has seen Mr. Vaughan write, but he does not know enough of his hand to speak to it, though he rather believes the paper to be Mr. Vaughan's hand; there are some parts in it like Stone's hand-writing. He says he has known Mr. Stone well many years; he never heard him express any thing disloyal; he believes he is a friend to reform, but he is also a friend to the constitution.

Mr. Rogers is next called—he has known both the Mr. Stones for many years; he says in March, 1794, Mr. Stone met me in the street, and mentioned having received a letter from his brother at Paris, and the arrival of a gentleman who wished to collect the sentiments of the people of this country with respect to a French invasion; he says he rather declined the conversation; he says Mr. Stone called upon him a few days afterwards, and showed him a paper written by somebody else, that the English would unite to repel an invasion; he said he thought he should do his duty, if by stating what was true, he could save his country from an invasion; he says there was no injunction of secrecy; that he has known the prisoner many years, and always thought him to be a well meaning man.

Gentlemen, this is the important evidence that has been given in support of the charge which is made by the counsel for the public against the prisoner at the bar; and, gentlemen, it is admitted, I think by the counsel for the defendant, that this is important evidence, if the mind of the prisoner went to communicate the intelligence contained in this paper to the government of France.

Mr. *Erskine*.—No—pardon me, I disavow it positively; I never would come again into this place, if I had admitted any such thing.

Lord *Kenyon*.—I understood you to state that the only question in this cause was, what was the intention; I understood you both to say in terms that the question was reduced pretty much to the point, whether he had a criminal intention towards the country in that which was done.

Mr. *Erskine*.—I did not, I thank God, express myself in that manner. I said that the question was, whether the prisoner gave this communication to France with an intention to benefit France, instead of with an intention to avert that calamity from this country; that is what I said.

Mr. *Attorney General*.—I beg to say a single word with your lordship's permission, in this stage of the cause, that what I opened to the jury may not be misunderstood. I put myself upon the words of the indictment—that if the intention was to make that communication to aid and assist the government of France in carrying on its war against this country, I state it now distinctly as I stated it before to be high treason.

Mr. *Erskine*.—I was only speaking for myself, but Mr. Serjeant [illegible] same thing.

Mr. Justice *Grose*.—The counsel for the prisoner do not differ.

Mr. *Erskine*.—Not in the least, we do not presume to say we are right, but we do not choose to be misinterpreted.

Lord *Kenyon*.—Gentlemen of the jury—this is I think important evidence in the cause; these papers are proved to have been sent, and to be found in the custody of Mr. Jackson in Ireland; it is for you to say what the character of Mr. Jackson was; the original copies of both these papers were found in the custody of Mr. Stone in England, one was proved by Mr. Smith to have been delivered by him to Mr. Stone, and the prisoner confessed to the witnesses who have been called, that the other paper he had from Mr. Vaughan; they get into the hands of Jackson, who was in Ireland. Mr. Sheridan in his evidence, you will recollect, states that the prisoner told him he meant to communicate this to the French government, and that the mode he should take, would be through a circuitous channel of communication, to undeceive the French government.

Now, gentlemen, it is for you to conclude upon this evidence (I shall consider the answer and the observation as well as I am able) whether these papers, the effect of which I have before commented upon, were not communicated to Mr. Jackson in Ireland, in order to go by that circuitous channel of communication he spoke of to Mr. Sheridan, to the government in France. But it is said by the counsel, and the evidence, that has been adduced, that he could not mean any thing amiss in this, because these communications had been made frequently in the streets, and upon the Coal Exchange, and in places very public, to divers other persons.

These communications involve no crime at all; the writing of these papers, independent of the use that was to be made of them, was no crime; he might have shown them with perfect confidence, satisfied that no one could derive from them accusation against him, if he had shown them at all points of the compass, provided he had not shown them with a view that they should be transmitted to France, or in any way put into the power of the government of France, to assist and aid the counsels of that country, that is the single purpose which constitutes the offence; and, therefore, when it is said that all this goes to prove the innocence of the man, it is for you to judge whether with these observations it tends to prove any thing at all.

It is said that at the time when his house was examined, he made no difficulty in producing his papers, but that all his papers were communicated to the officers who came. Gentlemen, you will recollect what I have before stated to you, and you must recollect it before you form your judgment of the matter—that when he was asked for what was thought by the under secretary of state to be the essential papers; namely, those signed Popkins and Enots, and told that all his other papers should be delivered to him as of little importance compared with them, that he then positively said he had no papers with those signatures, he had no correspondence of the kind. These papers were afterwards found.

It has been said,—and every thing that has been said, ought to receive its full force,—that when it was essential to make communications, he had not been backward in making communications. I am bound to observe upon this also, that these communications were made in the preceding year, 1793; the last of them in the month of April, 1793, and that every one of these communications was prior to the important time when the messenger from France, Mr. Jackson, came into this country, for the time when he came into this country appears by the direction he left at the port of Hull.

Gentlemen, I have stated to you the evidence which was given by Mr. Sheridan, my lord Lauderdale, Mr. Towgood, and Mr. Rogers; you will recollect what the advice was that Mr. Sheridan gave the prisoner—that it was a ticklish kind of business that he meddled with, and that he thought he ought not to receive any letters from his brother; that he ought to have nothing to do with the business without communicating to the minister. It was therefore contrary to the advice of these four gentlemen, whose evidence I have read, that he proceeded to do any thing with this paper of Mr. Vaughan's, which the two noble brothers of the house of Maitland, my lord Lauderdale and colonel Maitland, told him contained exceptionable passages which they wondered Mr. Vaughan should write.

It is said, by all this he did not mean to injure this country, and assist France. The great Searcher of hearts knows the heart of man; we can only judge of men's hearts, and their intentions from their overt acts; the paper was sent, according to his own express account of the paper to Mr. Sheridan, with a view to be communicated to the government of France; it was sent there in direct opposition to the advice of the four gentlemen whose names I have mentioned to you; it is for you to say whether it was sent innocently or not; for when you have drawn that conclusion you arrive at the end of your business: but before you make that conclusion, you will attend to the character which has been given by a great number of witnesses of this person, and of his general demeanor and conduct in life.

We are certainly not trying his character otherwise than it comes to assist him in his defence upon this case; we are trying the fact, whether he communicated this important paper in the course of going by a circuitous communication (I choose to put it in the words he used to Mr. Sheridan) to the government of France. The use of the evidence

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in the evidence.
Mr. Justice *Lawrence.*—It has been stated
the counsel for the prisoner, as I under-
d (if I am mistaken I wish to be corrected)
t the question was, whether he acted *bona fide*, or with the traitorous intention stated in the indictment. I believe it was stated by my brother Adair that the question would be, whether the prisoner, from what he knew of Mr. Jackson, gave the paper to Mr. Jackson with the criminal intention imputed in the indictment, or with an intention of averting the calamities of an invasion. In order to disprove that intention, a good deal has been said with respect to that which the prisoner communicated to Mr. Sheridan, Mr. Smith, and other persons, with respect to the motive with which he had collected this information.

Gentlemen, if you attend to the evidence of Mr. Smith you will see this:—he said, that the prisoner came to him, and told him that his correspondence with his brother had been interrupted for a considerable time, but a person had lately brought him a letter from his brother, to which he requested he would send him an answer; that his brother appeared to be much alarmed with the apprehension that the French intended to invade this country; but he thought if any means could be afforded him of counteracting the impressions there entertained respecting the state of affairs in England, it might be advantageous: he said, he thought there could be no impropriety in giving his brother that general information. I think the account he gave Mr. Sheridan was to the same effect:—that, by means of his brother, this information might reach the government of France. The account he gave the other gentlemen was not exactly the same, but I think he said the information was, to get to the government of France by the means of some American gentleman.

Now, when you consider as to the truth of that, see whether he is consistent. In the first place, I observe that the account is not exactly the same; but that does not particularly strike me, therefore I would not have it much the subject of your attention: but I think there is something material in the evidence of Mr. Smith; he informed Mr. Smith that his correspondence with his brother had been interrupted for a considerable time, but a person had lately brought him a letter from him, to which he requested an answer: he appeared to be much alarmed at that time with apprehensions that the French intended an invasion of this country.

Now, that the correspondence was inter- does not seem to me to be proved by ence; for I think it appears that the o. 10. was dated on the 4th of March, -mark the 24th; and it appears like- t two letters, directed to him, one, the 14th of February, with no post-mark, the other, the 16th of February, the post-mark to which I think is the 1st of March: so there does not seem any interruption of the correspondence between him and his brother. And in that letter of the 4th of March, No. 10, it is remarkable, that he desires his letters to be directed to him in future to the house of Jean Louis Bourcard and company, at Basle in Switzerland; though, he says, he has met with no interruption in their receipt; but as it is most likely, from circumstances, that an interruption may take place. Therefore, it appears, taking this letter with the account he gave to Mr. Smith, that it was not the fact that there had been any interruption in the correspondence between him and his brother.

Mr. Serjeant *Adair.*—There had been an interruption of their correspondence of eight months—from April to November.

Mr. *Attorney General.*—This is getting into great irregularity; but if counsel are thus to break in after the Court has summed up, I should wish to observe concerning the account of Popkins and Enots.

Mr. Justice *Lawrence.*—I should have to lament if by any misapprehension of mine the prisoner laboured under any disadvantage whatever; but, if I understood Mr. Smith right, the prisoner stated to him that a gentleman who had brought a letter to him, informing him that his brother was very much alarmed with respect to an invasion of this country, and that the correspondence between them was interrupted.

Mr. *Erskine.*—Had been interrupted: Mr. Stone's letter from France states, in terms, that interruption; and it had in fact existed for eight or nine months.

Mr. *Attorney General.*—I mean to say, Mr. Justice Lawrence is perfectly accurate.

Mr. Justice *Lawrence.*—I am almost certain he said his correspondence l terrupted for a considerable time

American gentleman, whose name was Jackson, had brought him a letter; it did not point out when it was interrupted: but I could not help observing this, that his account of the thing was, that his brother was very apprehensive of an invasion of this country, and under that pretence he endeavoured to get that information: that was the ground upon which I understood it was put; I wished to point that out to the observation of the jury, that it might have the consideration it deserves.

Mr. Justice *Grose*.—I have taken the words thus—"The prisoner came to me and said, my correspondence with my brother has been interrupted for a considerable time."

Lord *Kenyon*.—I stated it in those very words to the gentlemen of the jury.

Mr. *Attorney General*.—All that is material upon that is, to observe the dates of the letters.

Mr. Justice *Grose*.—I was only solicitous that the question should be perfectly understood; and now, upon this latter part, it is clear.

The Jury withdrew at ten minutes past eight o'clock, to consider of their Verdict; they returned into court at eleven, with a Verdict of NOT GUILTY.

Upon the Verdict being pronounced, some persons in court clapped their hands and huzzaed; one gentleman (Mr. Richard Thompson) being particularly observed by the Court, was fined twenty pounds.*

Note.—The prisoner was allowed occasionally to sit.

* See the Note at the end of lord Shaftesbury's case, *ante*, Vol. 8, p. 821. Upon the delivery of the Verdict, Guilty, in Colledge's case, Vol. 8, p. 714, a person who was observed to be particularly concerned in shouting was committed to gaol for the night.

END OF VOL. XXV.

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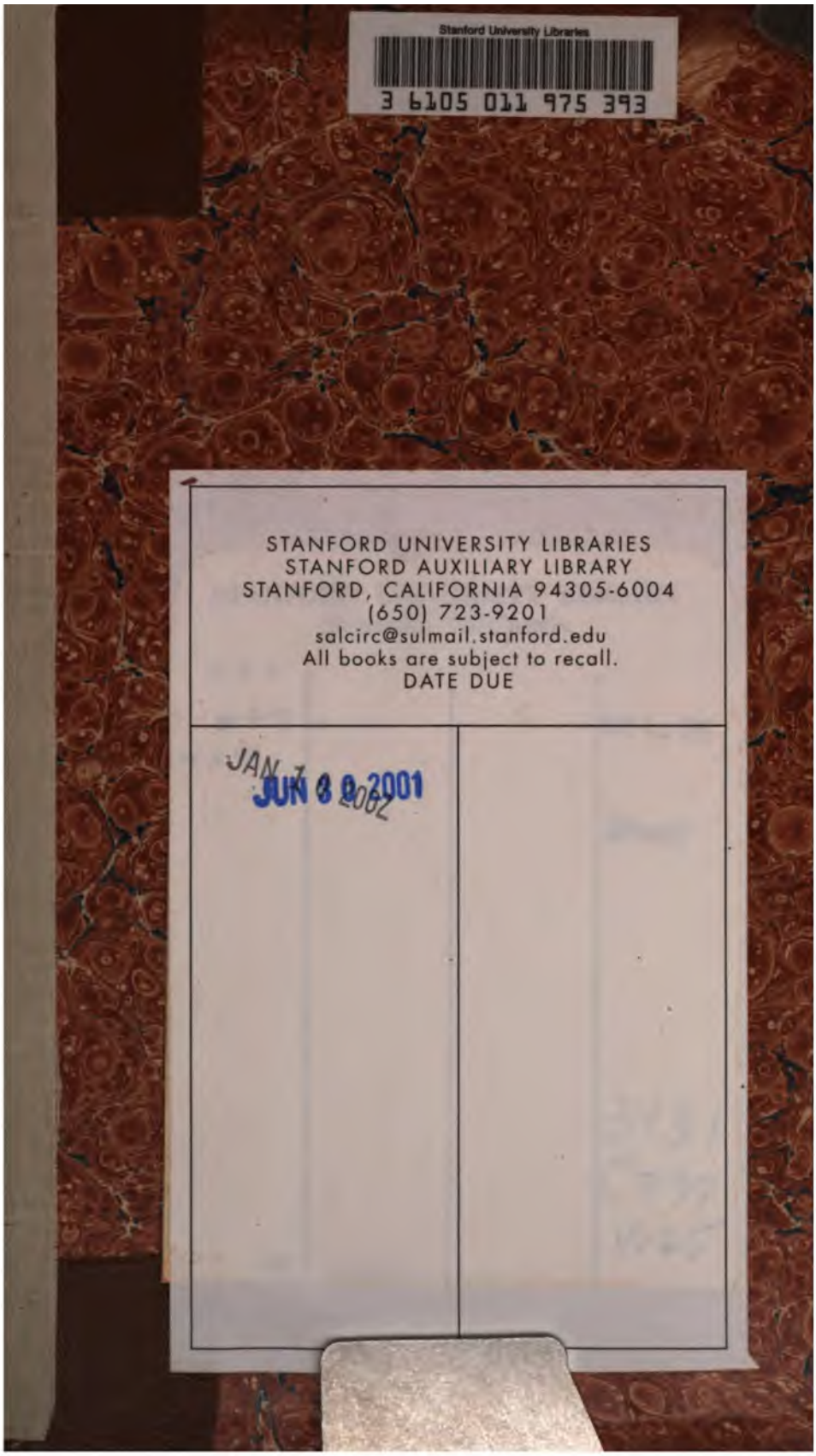
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